

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5563 of 2017**

- Devraj Mahilange S/o Shri Kumar Mahilange Aged About 28 Years R/o Village- Manpur, Thana And Tahsil- Mungeli, Civil & Revenue District Mungeli, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer Police Station City Kotwali Mungeli, District Mungeli, Chhattisgarh.

---- Respondent

 For Applicant : Shri Sumit Shrivastava, Advocate
 For Respondent/State : Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

13.9.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.449/2017 registered in Police Station City Kotwali, Mungeli (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant submits that the applicant has been arrested on 14.8.2017, charge sheet is not yet filed, the applicant has been remanded by Chief Judicial Magistrate, Mungeli. As per the allegation, 8.640 bulk liters of country liquor has been seized from the possession of the applicant. Learned counsel for the applicant would submit that the the applicant is the first offender, he will not commit any offence in future, as the trial may take some time for its conclusion, he may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant on the basis of the quantity of liquor so seized from the possession of the applicant, and also his criminal antecedent ie. earlier Crime No.307/2013 under Section 34(1)(a) of the CG Excise Act, 1915 was registered.

5. Perused the entire material.

6. The applicant is in custody for one month, charge sheet is not yet filed, the trial may take some time for its conclusion, though earlier about four years ago the applicant was involved in one of the similar offence, but the said offence was bailable one and also thereafter the applicant was never involved in similar or other offence, as submitted he will not commit any offence in future and considering the other facts, I am inclined to grant one last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.30,000/- with one solvent surety of like sum amount to the satisfaction of concerned trial Judge for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the

applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE