

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5675 of 2017**

- Pawan Nayak S/o Ghanshyam Nayak Aged About 35 Years R/o Village Chingraud, Thana, Tahsil & District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mahasamund, District Mahasamund, Chhattisgarh.

---- Respondent

 For Applicant : Shri Vikash Pradhan, Advocate
 For Respondent/State : Shri Sumit Jhawar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

19.9.2017

At the outset, learned counsel for the applicant would submit that on account of clerical mistake, he has mentioned the age of the applicant as 35 years, but at the time of incident, i.e. on 14.02.2014, the applicant was aged about 24 years and the police has filed charge sheet showing the age of the applicant as 24 years, hence, this fact may be considered that the age of the applicant was 24 years at the time of the incident.

2. Heard the matter finally.

3. 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.109/2014 registered in Police Station Mahasamund Distt. Mahasamund (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

4. Learned counsel for the applicant submits that the applicant has been arrested on 20.8.2017, after investigation, police has filed

charge sheet which is presently pending before Chief Judicial Magistrate, Mahasamund as Criminal Case No.S-213/2017. As per the allegation, 5.400 bulk liters of country made liquor has been seized, during investigation, the applicant fled away from the spot and police seized said liquor from the spot and in the final charge sheet showing the applicant as absconding. Thereafter the applicant was arrested as permanent non bailable warrant was issued against the applicant. Learned counsel for the applicant would submit that 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.

5. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant though fairly submits that there is no criminal antecedent reported against the applicant.

6. Perused the entire material.

7. The applicant is in custody for one month, no criminal antecedent is reported against him, though he was absconding during investigation, ultimately he was arrested and since then he is in custody, upon consideration of the entire 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.

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

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of like sum amount to the satisfaction of Chief Judicial

Magistrate, Mahasamund for his appearance before the said Court as and when directed.

10. 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