

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5709 of 2017**

- Mahesh Kanwar S/o Maghi Singh Kanwar, Aged About 52 Years
R/o Village Ghusera, Thana / Tahsil Dongargarh, District
Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Thana Dongargarh, District
Rajnandgaon Chhattisgarh.

---- Respondent

 For Applicants : Shri Samir Singh, Advocate
 For Respondent/State : Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

10.10.2017

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.256/2017 registered in Police Station Dongargarh, Distt. Rajnandgaon (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 08.8.2017, after investigation, police has filed charge sheet which is presently pending before Chief Judicial Magistrate, Rajnandgaon, but learned counsel for the applicant is not aware of the criminal case number. As per the allegation, 63 bulk liters of foreign liquor has been seized from the possession of the applicant. Learned counsel for the applicant submits that earlier one matter under Section 34(2) of the CG Excise Act has been registered against the applicant as Crime No.434/2014 and Coordinate Bench

of this court vide order dated 26.11.2014 in MCRC No.6216/2014 granted bail to the applicant and the trial of the said matter is still pending for conclusion. He further submits that Crime No.207/95 was also registered against the applicant under Section 379 of the IPC in relation with theft of cycle and the applicant was not convicted in that matter. The applicant was never convicted by any criminal Court earlier and as the trial may take some time for its conclusion, he may be granted bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant and would submit that allegation against the applicant in Crime No.434/14 was that he was in illegal possession of 84.60 bulk liters of liquor and also in the present matter 63 bulk liters of foreign liquor has been seized and looking to his criminal antecedent, his application for bail may be dismissed.

5. Perused the entire material.

6. The applicant is in custody for two months and two days, charge sheet has been filed, the trial may take some time for its conclusion, though earlier the applicant was arrested in similar offence as aforementioned and also considering the fact that coordinate Bench of this Court has already granted bail to the applicant and there is no fact surfaced that the applicant has been convicted in the said matter, and considering 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.

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.1,00,000/- with two separate solvent sureties of Rs. 50,000/- to the satisfaction of 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.

10. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Dongargarh, distt. Rajnandgaon (CG) **on every Monday at 11.00 am.** It is further made clear that if the applicant fails to do so, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

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