

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5745 of 2017**

- Chintaram S/o Ramprasad Dhidhi, Aged About 50 Years R/o Village Dokarpali, Thana Tendukona Tahsil Bagbahara District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Excise Officer, Excise Circle Bagbahara, 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

25.9.2017

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 (Excise) No.08/2017 registered by investigating agency, Excise Circle, Bagbahara, Distt. Mahasamund (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 30.8.2017, charge sheet is not yet filed and the applicant has been remanded by Chief Judicial Magistrate, Mahasamund. As per the allegation, 11.00 bulk liters of country made liquor has been seized from the possession of the applicant. Learned counsel for the applicant submits 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.

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 applicant and would submit that earlier against the applicant one preventive proceeding under Sections 117 & 116(3) of the Cr.P.C. has been initiated against the applicant in the year 1999.

5. Perused the entire material.

6. The applicant is in custody for last 27 days, charge sheet is not yet filed, the trial may take sometime for its conclusion, the applicant was never involved in any of the similar or penal offence prior to the incident, but for the preventive proceedings initiated about more than 18 years ago. On due 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.

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.40,000/- 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.

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