

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 128 of 2017

Shivshankar Sahu, S/o. Late Uttara Kumar Sahu, Aged About 38 Years,
R/o. Village Badgaon, Police Station Mandir Hasoud, Raipur, District
(Revenue & Civil) Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station
Mandir Hasoud, District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. N. Naha Roy, Advocate

For Respondent : Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23/01/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.195/2016 registered at Police Station- Mandir Hasoud, District Raipur (C.G.) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. As per the prosecution case, on 25.07.2016, on a raid being conducted, from the possession of the present applicant, 8.280 bulk liters of illicit liquor was seized.
3. Learned counsel for the applicant would submit that this is the second bail application, the earlier bail application was dismissed as withdrawn on 15.09.2016 with liberty to file afresh after examination of the seizure witness. He further submits that one of the seizure witness namely Kush Deewar has been examined and he has not supported the case of the prosecution; whereas the

other seizure witness Bhupendra Sharma despite repeated service of summons has not turned up. He referred to the order sheets and copy of the summons. Therefore, he submits that considering the fact that one of the seizure witness has not supported the case of the prosecution and the applicant is in jail since 25.07.2016, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that one of the seizure witness has been examined and he has not supported the case of the prosecution.
5. Perused the case diary and the statements. One of the seizure witness Kush Deewar has been examined and he has not supported the case of the prosecution. With respect to other seizure witness, it is submitted that in few occasions, he was not served, however, when the summons were served, he has not turned up. Taking into such fact and further considering the period of detention of the applicant as he is in jail since 25.07.2016, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge