

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 731 of 2017

- Sanjay Joshi S/o Shiv Dayal Joshi, Aged About 26 Years R/o Village- Potiya, Police Station- Nandani Nagar, Tahsil- Dhamdha, District- Durg Chhattisgarh.

---- **Petitioner**

Versus

- State of Chhattisgarh Through- The Station House Officer, Police Station- Nandani Nagar, District- Durg Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Uttam Pandey, Advocate

For Respondent/State : Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06-03-2017

1. This is a 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 on 28-8-2016 in connection with Crime No. 233 of 2016, registered at Police Station Nandani Nagar, District Durg (CG) for the offence punishable under Sections 34(2) of the Chhattisgarh Excise Act. Earlier first bail application was dismissed as withdrawn with liberty to repeat the same after examination of the seizure witnesses on 8-11-2016.
2. As per prosecution case, 28-8-2016 on information being received a raid was conducted by the police party, the applicant was found in possession of illicit liquor measuring about 7.38 liters, the same was seized from him and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that now seizure witnesses namely Kamlesh Prasad and Uma Shankar have been examined and they have not supported the case of prosecution. He would further submit that the applicant has been falsely implicated in the case, he

is in jail since 28-8-2016, charge-sheet in this case has been filed and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail., however, he is not able to dispute the fact that the seizure witnesses have been examined and they have not supported the case of prosecution.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statements of seizure witnesses Kamlesh Prasad and Uma Shankar which would show that they have not supported the case of prosecution.
7. Taking into consideration facts and circumstances of the case, nature of allegations leveled against the applicant and further considering the fact that the seizure witnesses have not supported the prosecution case and also the fact that charge-sheet in this case has been filed and the applicant is in jail since 28-8-2016, I am inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju