

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 861 of 2017

- Laxminath S/o Late Shri Preetram Sahu Aged About 29 Years R/o Village Purai, Police Station- Utai, Tehsil & District Durg, Chhattisgarh.

---- **Petitioner**

Versus

- State of Chhattisgarh Through Assistant District Excise Officer, Special Unit, Durg, District- Durg, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Shokie Yadav, Advocate

For Respondent/State : Mr. Atul Swarnakar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06-03-2017

1. This is 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 16-7-2016 in connection with Crime No. 82 of 2016, registered at Police Station Assistant District Excise Officer, Durg, District Durg (CG) for the offence punishable under Sections 34(1)(A) and 34 (2) of the Chhattisgarh Excise Act. Earlier first bail application was dismissed as withdrawn with liberty to file afresh after examination of the seizure witnesses on 19-9-2016.
2. As per prosecution case, 15-7-2016 on information being received a raid was conducted by the police party and from the possession of the present applicant illicit liquor measuring about 6.480 liters 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 Sukhin Bai and Bharat Bhushan 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 16-7-2016, 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 Sukhin Bai and Bharat Bhushan which would show that they have not supported the prosecution case.
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 case of prosecution and also the fact that the charge-sheet has been filed and the applicant is in jail since 16-7-2016, 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