

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 755 of 2017

- Suresh @ Lala S/o Late Bund Ram, Aged About 33 Years R/o Village And Police Station Gidhouri, District Baloda Bazar - Bhatapara Chhattisgarh

---- **Petitioner**

Versus

- State Of Chhattisgarh Through : Station House Officer, Police Of Police Station Gidhouri, District Baloda Bazar - Bhatapara Chhattisgarh

---- **Respondent**

For Applicant : Mr. Anil Gulati, Advocate

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-02-2017

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 9-11-2016 in connection with Crime No. 226 of 2016, registered at Police Station Gidhouri, District Baloda Bazar – Bhatapara (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act. Earlier first bail application was dismissed as withdrawn with liberty to repeat the prayer after examination of the seizure witnesses on 13-12-2016.
2. As per prosecution case, on information being received, a raid was conducted by the police party, the applicant was found in possession of illicit liquor measuring about 28.47 liters, the same was seized from him and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that no seizure was made in person from the applicant, seizure witnesses namely Motilal and Rajbhan have been examined and they have not supported the prosecution case. He would further submit that the applicant has been

falsely implicated in the case, charge-sheet has been filed, he is in jail since 9-11-2016 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 does not dispute the fact that the seizure witnesses have been examined and they have not supported the prosecution case.
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 Motilal and Rajbhan which would show that they have not supported the prosecution case.
7. Taking into consideration facts and circumstances of the case and further considering the fact that the seizure witnesses have not supported the prosecution case, without further observation on the merits of the case, 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. He shall appear before the trial Court as and when directed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju