

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1177 of 2017

1. Dinesh Mishra, S/o. Ramkripal Mishra, Aged About 44 Years, R/o. Kalika Nagar, Police Station, Tehsil & District- Kawardha, Kabirdham, Chhattisgarh.

----Applicant

Versus

1. Union Of India, Through : Custom & Service Tax Department , Near 32 Bunglow, Bhilai, Police Station Supela, District- Durg, Chhattisgarh.
2. State Of Chhattisgarh, Through : The Secretary, Department Of Home Affairs, Government Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh.

---- Respondents

For Applicant	: Mr. Rupesh Shrivastava, Advocate
For Respondent No.1	: Mr. Vinay Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/04/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.02/2013-14 ST dated 13.03.2014, registered at Police Station – Case is registered by Preventive Branch Bhilai-II of Central Excise Customs & Service Tax, Bhilai for the offence punishable under Section 89 (1) d of the Finance Act, 1994.
2. The first bail application was dismissed on 02.08.2016 in M.Cr.C. No.1910/2014, wherein the applicant prayed time to deposit the amount alleged, however, due to financial constraint he could not deposit, therefore, the liberty was sought for after depositing the amount, he may be given an opportunity to repeat the same.

3. Learned counsel for the applicant would submit that the applicant was initially arrested on 24.03.2014 for non-depositing of service tax of the year 2011-12 and 2012-13, thereafter, he was released on temporary bail on 28.04.2014 to deposit the amount and three installments were deposited, however, rest of the amount could not be deposited, therefore, he was again arrested on 29.03.2016. It is further submitted that thereafter, on 02.09.2016, bail petition was filed, which was dismissed and thereafter as per circular dated 30.09.2016, Section 89, 90 and 91 of the Finance Act was amended, wherein slab has been made to Rs.2.00 crores from 50.00 lakhs.
4. Perused the earlier dismissal order dated 02.08.2016, wherein categorically it stated that the applicant may repeat the bail application after depositing the entire amount. Admittedly, the entire amount has not been deposited, therefore, taking into such fact, I do not find any change of circumstances to reconsider the bail application again.
5. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge