

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1880 of 2017

Sunil Dewangan, S/o. Makhanlal Dewangan, Aged About 40 Years, R/o. Subhash Nagar, Near Water Tank, Dhamtari, Post Office & Police Station Dhamtari, District Dhamtari, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station- City Kotwali, Dhamtari, District Dhamtari, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shivendu Pandya, Advocate

For Respondent : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.04.2017

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.507/2016 registered at Police Station- City Kotwali, Dhamtari, District Dhamtari (C.G.) for the offence punishable under Section 34(2) of Chhattisgarh Excise Act.
2. As per the prosecution case, on 28.12.2016, on information received, on a raid being conducted, from the possession of the applicant, total 6.300 bulk liters of illicit liquor was seized.
3. Learned counsel for the applicant would submit that this is the second bail application, the first bail application was dismissed as withdrawn on 14.02.2017 with liberty to file afresh after examination of the seizure witnesses and now the seizure witnesses namely Bhupendra Dewangan & Trilochan Dewangan

have been examined and they have not supported the case of the prosecution; therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of the seizure witnesses Bhupendra Dewangan & Trilochan Dewangan. In examination in chief, they have made positive statement and the reference of the counsel to consider the cross-examination cannot be appreciated at this stage, which has to be evaluated by the trial Court after entire evidence placed before it. Considering the same, I do not find it proper to evaluate the statement of the witnesses, as it would amount to usurp the power of the trial Court and adjudicate the case on merit while hearing the case on bail. Consequently, I am not inclined to release the applicant on bail.
6. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge