

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5712 of 2017**

- Ashok Satnami S/o Umrao Satnami Aged About 42 Years R/o Kutera (Kutela) Police Station Arang, Tahsil & District Raipur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Arang, District Raipur Chhattisgarh.

---- Respondent

 For Applicant : Shri CR Sahu, Advocate
 For Respondent/State : Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

20.9.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.287/2017 Police Station Arang, Distt. Raipur (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant submits that the applicant has been arrested on 03.7.2017, after investigation, police has filed charge sheet against present applicant, co-accused Mantaran Sen and Ramchand Yadav, which is presently pending before Judicial Magistrate First Class, Raipur as Criminal Case No.5365/2017. Learned counsel for the applicant would submit that co-accused Mantram Sena and Ramchand Yadav have already been granted bail by this Court vide order dated

21.8.2017 in MCRC No.4800/2017. Present applicant also preferred as applicant No.3 in the said MCRC, but as instructed, MCRC filed by the applicant was withdrawn as the present applicant intend to file fresh MCRC after examining the facts regarding earlier criminal antecedent. Present applicant is in custody for 2 months and 17 days and the charge sheet has been filed. As per the allegation, from the applicant, 5.400 bulk liters of foreign liquor has been seized. Against the present applicant two other matters were registered and the applicant was prosecuted in Criminal Case No.294/11 (JMFC Balodas Bazar) under Section 34(2) of the CG Excise Act and vide judgment dated 08.8.2012, the applicant has been acquitted, and also one more matter has been registered against the applicant as Criminal Case No.156/2015 (JMFC Raipur) under Section 34(1)(a) of the Excise Act and vide judgment dated 16.12.2016 the applicant has been acquitted. With this, the applicant is not previously convicted, he will not commit any offence in future, hence, he may be granted bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant and also submits that earlier one more matter as Crime No.203/06 under Section 34(1)(a) of the Chhattisgarh Excise Act has been registered, hence, looking to the many matters registered against the applicant, instant MCRC may be dismissed.

5. Perused the entire material.

6. The applicant is in custody for two months and seventeen days, other two co-accused have already been granted bail by this Court, in earlier two matters, the applicant has been acquitted by the concerned criminal court though one more matter shown as registered by the police but the said matter is of bailable one, the trial take some time for its conclusion, and in the present matter, 5.400 bulk liters of foreign liquor has been seized, after consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of like sum amount to the satisfaction of Judicial Magistrate First Class, Raipur for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in

view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

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