

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8632 of 2018**

Suraj Singh, S/o Shri Diwakar Singh, aged about 33 years, R/o Chandewara, Police Station Lalganj, Tahsil Lalganj, Azamgarh (U.P.), at present R/o Bhilai Camp-01, Near the Adarsh Nagar, Water Tank, Police Station Chhawani, District Durg (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Bodla, District Kabirdham(CG).

---- Non-applicant

For Applicant : Mr. Awadh Tripathi, Advocate

For Non-applicant : Mr. Neeraj Kumar Sharma, Dy.G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****12.11.2018**

1. This is third bail 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.138/2018 registered at Police Station Bodla, District Kabirdham for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. The first bail application of the applicant was rejected on merits by the order of this Court dated 04.09.2018 passed in M.Cr.C. No.5995 of 2018. The second bail application of the applicant was rejected on merits by the order of this Court dated 23.10.2018 passed in M.Cr.C. No.7954 of 2018.
3. Case of the prosecution in brief is that on 02.08.2018 at about 1:40 pm. Pawan Patwa, A.S.I. of Police Station Bodla received an information from the informant that 04 persons are carrying foreign liquor in Grand I Ten Car bearing Registration No.CG/07BL/0527 and going to Kawardha for sale the said liquor, Pawan Patwa, A.S.I. after getting the information, he blocked the main road Bodla at near

Bandhatola and he stopped the said vehicle. The accused/applicant and co-accused namely Ravi Shanker Patel, Vishal Tyagi and Sandeep Sahajeet were present in the said car. He seized 15 cartoons of foreign liquor i.e. 135 bulk liters from the said car.

4. Counsel for the applicant submitted that the applicant is a innocent person and has been falsely implicated in the present case. The seizure witnesses Punau Ram (P.W.-1) and Raja Jhariya (P.W.-2) have turned hostile and they did not support the prosecution case hence the applicant may be released on bail. In support of his case, he placed the order dated **31.08.2018** passed by co-ordinate Bench of this Court in ***M.Cr.C. No.6092 of 2018 (Ramesh Singh & Anr. Vs. State of Chhattisgarh)***.
5. On the other hand, counsel for the State opposed the bail application. He submitted that earlier two bail applications of the applicant have already been rejected by this Court considering on the merits of the case.
6. Merely turning hostile of the seizure witnesses is not a sufficient ground for release of the applicant on bail.
7. In the case in hand, Investigating Officer is to be examined. In the aforesaid case ***Ramesh Singh*** (supra), no legal principle has been laid down which may be binding upon this Court for the purpose of grant of bail.
8. Looking to the above mentioned facts and circumstances of the case, there is no such change in the circumstances of the case by which the applicant is entitled to get the benefits of Section 439 of CrPC. Consequently, the third bail application of the applicant is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE