

(2017) 05 CHH CK 0020
In the Chhattisgarh High Court
Case No : 2663 of 2017

Kamal Dev Nishad

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-05-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Chhattisgarh Excise Act, 1915](#), [Section 34\(2\)](#)

Citation : (2017) 05 CHH CK 0020

Hon'ble Judges : Chandra Bhushan Bajpai

Bench : Single Bench

Advocate : Abhishek Saraf, Sumit Jhawar

Judgement

1. 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.59/2017, registered at Police Station Pussour , Distt. Raigarh (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.
3. Case of the prosecution, in brief, is that 12.240 bulk liters of country liquor was seized by the police from the present applicant.
4. Learned counsel for the applicant submits that the applicant is in detention since 10.4.2017. He further submits that after investigation police had filed charge sheet which is pending as Cr. Case No. 203/2017 before the CJM, Raigarh. The applicant is the first offender and has no criminal background, he will not repeat the offence in future; he has been falsely implicated in the case, and therefore, the applicant may be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application. However, he fairly conceded that there is no material against the applicant for

involvement in any offence.

6. I have heard the counsel appearing for the parties.

7. On due consideration, as the applicant is in jail since 1 month , charge sheet is filed, the applicant is first offender; he will not commit any offence in future; trial will take some time and considering the quantity of liquor so seized, I am inclined to grant one last opportunity to the applicant so that he may not commit any offence in future and shall remain in the society peacefully.

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

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.40,000/- with one surety in the like sum to the satisfaction of the C.J.M. Raigarh for his appearance before the said trial Court as and when directed.

10. 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.