

(2017) 05 CHH CK 0016
In the Chhattisgarh High Court
Case No : 2670 of 2017

Mannu Nishad S/o Pilaram 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\(1\)](#)
[Section 34\(2\)](#)

Citation : (2017) 05 CHH CK 0016

Hon'ble Judges : Chandra Bhushan Bajpai

Bench : Single Bench

Advocate : Abhishek Sharma, Wasim Miyam, Panel Lawyer

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.81/2017, registered at Police Station Chhuikhadan, District Rajnandgaon(CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.
3. Case of the prosecution, in brief, is that 45.900 bulk liters of foreign liquor has been seized by the police from the present applicant.
4. Learned counsel for the applicant submits that the applicant is in detention since 3.4.2017. He further submits that charge sheet has not been filed and the applicant is remanded by A.C.J.M. Khairagarh, District Rajnandgaon. He submits that earlier in Cr. Case No. 467/2015 under Section 34 (1) (a) of the Chhattisgarh Excise Act 1915 vide judgment dated 20.1.2016, by the JMFC, Chhuikhadan, District Rajnandgaon, the applicant has been acquitted by awarding benefit of doubt. Also in Cr. Case No. 268/2015 vide judgment dated 24.5.2016, JMFC, Chhuikhadan, District Rajnandgaon, acquitted the applicant by

affording benefit of doubt. With this, the applicant is not the previous convict though he had been tried. He will not commit any offence in future and trial will take some time, therefore, the applicant may be granted bail during trial.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that the quantity so seized is on the higher side and though the applicant was acquitted earlier but police had registered the Crime No. 206/2015 and 133/2015 under Section 34 (1) (a) of the Chhattisgarh Excise Act, 1915.

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

7. On due consideration, as the applicant is in jail since 1 month and 7 days, charge sheet has not been filed and trial may take some time, though earlier 2 aforementioned Cr. Cases have been registered against the applicant, but ultimately he was acquitted and the quantity so seized is on the higher side and as submitted the applicant will not commit any offence in future, I am of the opinion that present is the fit case, in which, the applicant should be enlarged on regular bail.

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.1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the A.C.J.M. Khairagarh, Rajnandgaon (CG) for his appearance before the said trial Court as and when directed till trial.

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.

11. The applicant is further directed to remain present before the SHO/IO/ Incharge as the case may be, at Police Station Chhikhadan on every 1st and 3rd Monday at 11.00 am positively till trial. If the applicant remained absent, the concerned Police may intimate the trial court for the same. If the trial court find that the applicant remained absent without any cogent and proper reason as directed, the bail granted by this Court shall stand automatically cancelled without further reference to the Bench under intimation. Certified copy as per rules.