

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3131 of 2017

- Tarkeshwar Saitode S/o Jageshwar Saitode, Aged About 36 Years, R/o Village Baradera, Dhansuli, Post Office & Police Station Vidhansabha, Raipur, District Raipur, Chhattisgarh.

---- Applicant

Versus

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

---- Non-applicant

For Applicant – Shri Shivendu Pandya, Advocate.

For Non-applicant/State – Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

07-06-2017

1. Heard the matter finally.
2. I.A.No.2/2017 for urgent hearing and I.A.No.3/2017 for hearing the case during summer vacation are hereby disposed of.
3. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.226/2016 by P.S. Vidhansabha, District Raipur, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915') on 08-09-2016. After investigation the charge sheet has been filed which is pending before the JMFC Raipur, C.G. as Criminal Case No.20503/16. The applicant is first offender. The applicant is in jail for about 9 months. Though another matter under Section 34(1)(a) of the Act, 1915, three matter under the provisions of Cr.P.C. and one matter of theft have been registered prior to the incident, but looking to the fact that in the present matter 6.180 bulk liter country liquor has been seized from the applicant, he may be granted one last opportunity. He will not commit any offence in future. He may be enlarged on bail during trial as the remaining part of the trial may take some time.
4. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that earlier

following matter have been registered against the applicant:-

Sl. No.	Crime No./Year	Section
01.	180/2002	379/34 of the IPC
02.	49/2006	109 of the Cr.P.C.
03.	130/15	34(1)(a) of the C.G. Excise Act, 1915
04.	63/15	151, 107, 116(3) of the Cr.P.C.
05.	in the year 2015	107, 116(3) of the Cr.P.C.

Learned counsel for the State/non-applicant would submit that looking to the aforementioned criminal antecedent of the applicant and the quantity of liquor so seized from the applicant, the instant MCRC may be dismissed.

5. Perused the entire material.

6. The applicant is in jail since 9 months, similar offence has been registered under Section 34(1)(a) of the Act, 1915 which is a bailable one, three matter have been reported which are in connection with preventive proceedings under the Code of Criminal Procedure and in year 2002, as alleged, the applicant along with other co-accused stolen copper rod 82 Kg., though there are many matter as aforementioned registered against the applicant, but looking to the fact that the applicant is in jail since 9 months, I am inclined to grant one last opportunity to the applicant so that he shall not involve himself in any crime and shall live peacefully in society. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the Judicial Magistrate First Class Raipur, C.G. for his appearance before the said trial Court as and when directed till trial.

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

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge

Aadil