

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2851 of 2017

- Lal Chand Patel S/o Dahru Patel, Aged About 50 Years, R/o Village Thakudiya Khurd, Police Station & Tahsil Pithora, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through: The Station House Officer, Police Station & Tahsil Pithora, District Mahasamund, Chhattisgarh.

---- Non-applicant

For Applicant – Shri B.M. Roy, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

05-06-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.80/2017 by P.S. Pithora, District Mahasamund, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 on 11-04-2017. Charge sheet has not yet been filed. The applicant is remanded by the CJM Mahasamund. The applicant is first offender. This is the first bail application. As per the allegation, 25.530 bulk liter country liquor has been seized from the applicant. He will not commit any offence in future. Learned counsel for the applicant would further submit that as per submission of the State/non-applicant mentioned in the order sheet dated 17-05-2017, item No. 2, 3 and 4 are in connection with preventive proceedings and regarding item No.1, the applicant had filed certified copy of the judgment dated 07-09-2012 which goes to show that the applicant was acquitted for the offence under Section 429 of the IPC. He may be granted bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant on the basis of quantity of liquor so seized from the applicant and also the earlier criminal antecedent as aforementioned and prayed that the instant MCRC may be dismissed.

4. Perused the entire material.

5. On due consideration, as the applicant is in jail since 1 month and 24 days, charge sheet has not yet been filed, trial may take some time and out of 4 matter registered earlier against the applicant three were regarding preventive proceedings and in item No.1 ultimately the applicant was acquitted by the trial court, though the quantity of liquor so seized is on higher side, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any crime and shall remain 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.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate Mahasamund, C.G. for his appearance before the said trial Court as and when directed till trial.

6. 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.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge