

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1657/2017**

Sunil Shriwas S/o. Shri Kamal Narayan Shriwas, aged about 28 years, R/o Ayodhya Nagar, Changora Bhata, Raipur, PS DD Nagar, Distt. Raipur (CG)

versus

State of Chhattisgarh through PS Baloda Bazar, Police Station Baloda Bazar, Distt. Balodabazar- Bhatapara (CG)

For applicant	Mr. Vivek Agrawal, Adv.
For Respondent/State	Mr. Vasim Miyan, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****10/04/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested 20-12-2016 in connection with Crime No. 158/2015 registered in PS Baloda Bazar, Bhatapara (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act. Charge sheet has been filed and the same is registered as Criminal Case No. 85/2017 pending before the Chief Judicial Magistrate, Baloda Bazar.
3. Learned counsel for the applicant submits that the applicant is the first offender. No criminal antecedent is reported by the police in the case diary. As per prosecution case, 241.92 litre liquor has been seized from SUMO No. CG 04 D 2902 on 16-5-2015, not from the possession of the present applicant. It is submitted that the present applicant is not the registered owner of the vehicle as per Section 2 sub-section 30 of the Motor Vehicles Act. As he is not the registered owner, prima facie to connect the link from the applicant with the said liquor seized is of very weak type and not admissible under the Evidence Act. Police has not made the registered owner of the vehicle as accused. The applicant is in jail since 3 months and 20 days till today. It is submitted that as he will not commit any offence in future. He may be

released on bail till disposal of trial.

4. Learned State counsel opposes the bail application. However he fairly conceded that no criminal antecedent of the applicant is reported in the police case diary. As per investigation, present applicant had sold the said liquor. Hence the application may be dismissed.
5. Perused the case diary.
6. The applicant was not arrested along with the so seized liquor which was lying in the said SUMO vehicle. The matter is about 2 years old. There is no criminal antecedent of the applicant. The applicant was not the registered owner as per Section 2 sub-section (30) of the Motor Vehicles Act. The vehicle was registered in the name of one Kusum Netam and the document showing alleged sell of the said vehicle dated 9-10-2014 was not acted upon on behalf of the registered owner till the date of incident. Though the liquor seized from SUMO is 241.92 liter but looking to above facts and circumstances, without commenting anything on its merit, I am inclined to allow the bail application.
7. 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. 2,00,000/- (two lacs) with two solvent sureties each of Rs. 1,00,000/- (one lac) to the satisfaction of the CJM, Baloda Bazar CG for his appearance before the said Court regularly as and when directed by the said Court.
8. It is further directed that the applicant shall remain present on every Monday before IO/SHO, Baloda Bazar police at 11.00 am as the case may be to mark his appearance till conclusion of the trial. If the applicant fails to appear as directed, the concerned SHO/IO may inform the said fact to the trial Court and if the trial Court finds that the applicant had not appeared before the SHO/IO without proper and

cogent reason, the bail granted shall automatically stand cancelled without reference to the bench.

9. It is also 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: (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.

10. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge