

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2101 of 2017

1. Arjun Pal S/o Shri Vijay Pal, Aged About 32 Years, R/o Village- Seoni, Post Office- Raipur, Police Station- Sejbahar (it is also known as Police Station - Mujgahan) District- Raipur, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh through: Station Houses Officer Police Station- Sejbahar (it is also known as Police Station - Mujgahan) 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

11-04-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.128/16 on 19-10-2016 by P.S. Mujgahan, District Raipur, C.G.(the Court below while deciding the bail petition No.325/16 order dated 16-02-2017 very wrongly mentioned this as P.S. Sejbahar) for the offence under Section 34(2) of the C.G. Excise Act. The charge sheet been filed before the JMFC, Raipur. The said Court registered the matter as Criminal Case No.20928/2016. The applicant is the first offender. This is first bail application. He is in jail since about 6 months, he will not commit any offence in future. He may be granted bail till disposal of said criminal case. As per the allegation, 6.300 M.L. liquor has been seized from the conscious possession of the applicant.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that earlier one criminal case under Section 34(2) of the Excise Act had been registered on 20-09-2016 and one proceeding for the preventive action under Section

107, 116 of the Cr.P.C. has been initiated against the present applicant. It goes to show the earlier criminal antecedent of the present applicant.

4. Perused the entire material.

5. On due consideration, looking to the period of detention of the present applicant and other facts, I am inclined to grant one opportunity to the applicant so that he may remain in society without committing any similar offence and any of the offences. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the JMFC, Raipur, C.G. for his appearance before the said trial Court as and when directed.

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. On perusal of the copy of the order passed by the 9th Additional Sessions Judge Raipur, C.G. in bail petition No.325/16 dated 16-02-2017, it appears that the Judge concerned had signed the order under the seal and signature of 9th Additional District Judge Raipur, C.G.; when the matter is not to be tried by Additional District Judge, with this, designation of the presiding officer as Additional District Judge is highly deprecated. The District/Sessions Judge Raipur is directed to communicate one copy of this order to the concerned presiding officer and also direct the said presiding officer not to

repeat this mistake again, though simpliciter the said mistake committed may appear as typing mistake but even then the presiding officer should ensure before signing the order whether the correct nomenclature is mentioned or not.

8. Registry is directed to send copy of this order to the District Judge for information and compliance.

9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE