

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2135 of 2017

1. Rinku Lahri S/o Shri Dhaneshwar Lahri, Aged About 26 Years, R/o Block No. 30, House No. 458, Housing Board Colony Boriakala, Police Station Mujgahan, District Raipur Chhattisgarh

---- Applicant

Versus

1. State of Chhattisgarh Police Station Mujgahan, Raipur, District Raipur Chhattisgarh

---- Non-applicant

For Applicant – Shri Pawan Shrivastava, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

11-05-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.19/2017 on 4-2-2017 by P.S. Mujgahan, Raipur, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). The applicant is first offender. This is the first bail application. The applicant had not been convicted earlier by any Court of Law in any matter. He will not commit any offence in future and as per the allegation, 5.940 bulk liter foreign liquor has been seized from the applicant. Charge sheet has been filed, the matter is pending before the CJM Raipur, C.G., but learned counsel for the applicant is not in a position to state the criminal case number. Learned counsel for the applicant would further submit that as alleged by the counsel for the State/respondent the matter under Section 34(2) of the Act, 1915 has been registered against the applicant, but the Additional CJM Raipur vide judgment dated 03-8-2015 in Criminal Case No.7856/15 acquitted the accused/the applicant. With this, the applicant is not convicted by any criminal Court. The another matter under Section 36(C) of the Act, 1915 is bailable one and the two matter have been registered for initiation

of preventive action, but the applicant is innocent and looking to the fact that he is in jail since 04-02-2017 and the quantity of liquor so seized, he may be granted an opportunity and may be granted bail in the matter.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that though the applicant is not convicted by any Court of Law, but aforementioned matter have been registered and initiated against the applicant prior to the incident goes to show the conduct of the applicant. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. On due consideration, as the applicant is in jail since three months and seven days till date, he was not earlier convict and as alleged ultimately acquitted in the alleged matter under Section 34(2) of the Act, 1915, also looking to the quantity of the liquor so seized from the applicant and other facts, I am inclined to grant one last opportunity to the applicant so that he shall not involve himself in any crime and remain peacefully in society. 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 Chief Judicial Magistrate Raipur, 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)
JUDGE