

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2149 of 2017

- Rajendra Sahu @ Raja S/o Umashankar, Aged About 30 Years, R/o ITI Colony, Vishrampur, Police Station Vishrampur, District- Surajpur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through the Station Houses Officer, Police Station Vishrampur, District- Surajpur, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Jietendra Shrivastava, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

19-06-2017

1. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.38/2017 on 15-02-2017 by P.S. Vishrampur, District- Surajpur, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). After investigation police had filed the charge sheet which is pending as Criminal Case No.1349/17 before the CJM Surajpur, C.G. The applicant is in custody since 4 months and 5 days till date. Learned counsel for the applicant submitted certified copy in relation with other matters pending before the criminal court against the applicant. The said certified copies 4 in number are taken as part of the record. Learned counsel for the applicant would further submit that out of 11 matter registered against the applicant 7 matters are in connection with preventive proceedings; for remaining four crime numbers it is submitted that Crime No.54/15 under Section 457, 380 of the IPC is pending before the CJM Surajpur, C.G. as Criminal Case No.120/17 which is in relation with theft of tape recorder, iron key, LED TV and cash Rs.5,500/-, the said matter is pending, the applicant is one of the co-accused in the matter. Another matter is in relation with Crime No.78/07 under Section 457, 380 of the IPC was in relation with theft of sewing machine and other a few utensils along with cash Rs. 1,100/-, the said matter

is also pending before the JMFC Surajpur as Criminal Case No.407/16. The applicant is also prosecuted in a matter having Crime No.49/13 under Section 25, 27 of the Arms Act for keeping a sword illegally with him, the said matter is also pending as Criminal Case No.854/17 in the court of Judicial Magistrate Second Class Surajpur and in the said matter the applicant held arrested on 15-02-2017, the court had issued warrant of arrest on 11-04-2017 as he was already in jail and unable to intimate his counsel to file an application to condone his non-appearance. Another matter is in connection with Crime No.82/08 under Section 394, 506, 34 of the IPC, the said matter is also pending and the applicant is on bail in that matter. In matter Criminal Case No.1349/17 pending against the applicant under Section 34(2) of the Act, 1915 before the CJM Surajpur which is the present matter the applicant was allegedly in illegal possession of 7 bulk liter of hand made country liquor. Bechu (PW-1), Deelip Sahu (PW-2) were examined by the trial court and they turned hostile, not supported the prosecution's case. Besides this, there is no matter pending against him and he had never involved earlier in any of the offence in relation with the Act, 1915, though he has criminal antecedent, he will not commit any offence in future. He may be enlarged on bail.

2. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant on the basis of 7 matters in relation with preventive proceedings and 4 matters also pending aforementioned.

3. Perused the entire material.

4. As the applicant is in jail since 4 months and 5 days till date, he had never involved in any of the matters in relation with the Act, 1915, though as many as aforementioned 11 matters are pending out of which 7 matters are in relation with preventive proceedings and other 4 matters are pending as aforementioned, in the present matter the trial is under progress, two panch witnesses have not supported the case of prosecution, looking to the length of custody of the applicant, this Court is inclined to grant one last opportunity to

the applicant so that he shall not involve himself in any offence and shall live 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.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate Surajpur, C.G. for his appearance before the said Court as and when directed till trial.

5. 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.

6. It is further directed that the applicant shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Vishrampur, District Surajpur, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of said criminal case against him. If the applicant failed to mark his appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicant was not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicant shall stand cancelled by the trial Court without further reference to the Bench.

7. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge