

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2479 of 2017**

Aasha Ram S/o Ganesh Sahu, Aged About 70 Years Caste Teli R/o
Village Parsuli, Police Station Devri, District Balod Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Devri, District Balod, CG

---- Respondent

For applicant	Mr. P.P. Sahu, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****19-6-2017**

1. Heard on I.A. No. 1/2017 and I.A. No. 2/17 for taking additional documents on record.
2. On due consideration, both the interim applications are allowed. The documents annexed with the applications are taken on record if otherwise admissible in evidence.
3. Heard finally.
4. The applicant has preferred this application for grant of bail as he is arrested on 3-4-2017 in connection with Crime No. 29/2017 registered in PS Devri, Distt. Balod (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
5. Learned counsel for the applicant submits that after investigation charge sheet has been filed but he is not in a position to state the criminal case number. This is his first bail application before this Court. He is first offender. Earlier Crime No. 81/2014 under Section 34 sub-section (2) of the CG Excise Act was registered against him and police had filed charge sheet which is registered before the CJM, Balod as Criminal Case No. 735/2014. The trial Court vide judgment

dated 18-12-2014 acquitted the applicant by affording him benefit of doubt. In another matter, police station Devri also registered Crime No. 47/2014 and after investigation, charge sheet was filed before the CJM Balod. The trial Judge vide judgment dated 14-1-2015 acquitted the applicant by affording him benefit of doubt from offence under Section 34(2) of the Excise Act. One more matter under Sections 379, 379/34 of the Indian Penal Code was registered against the applicant and co-accused and after investigation police has filed charge sheet which was registered before the JMFC Dondi Lohara, Distt. Balod (CG), the then Distt. Durg as Criminal Case No. 96/2013. On 22-10-2013, the trial Judge permitted compounding of the offence under 320 of the Cr.P.C. as the complainant prayed for said permission and the trial Court allowing the said application acquitted the applicant and another co-accused for the charges against them. With this, though aforementioned three matters have been registered against the applicant but ultimately the applicant has been acquitted in all the three matters. In the present matter, as per allegation, 49.50 bulk litre country liquor/foreign liquor has been seized from the conscious possession of the applicant without any licence or permission. The applicant is aged about 70 years therefore. He has remained in jail for 2 months and 16 days. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take time.

6. Learned State counsel opposes the arguments advanced on behalf of the applicant on the basis of quantity of liquor so seized and the 3 matters registered against showing the criminal antecedent of the applicant.
7. Perused the matter.
8. On due consideration, as the applicant is in jail since 2 months and 16 days and as submitted he will not commit any crime in future, age of the applicant, and he has been acquitted in all the 3 matters

registered earlier against him, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime. 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. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the CJM Balod CG for his appearance before the said Court regularly as and when directed by the said Court.

9. 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; (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