

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2509 of 2017**

Subhash Das S/o Charandas Mahant, Aged About 42 Years R/o
Shivam Vihar, Raigarh, Tahsil And District Raigarh Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, City Kotwali,
District Raigarh Chhattisgarh

---- Respondent

For applicant	Mr. Manoj Jaiswal, Adv.
For Respondent/State	Mr. Neeraj Jain, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****04/05/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 3-4-2017 in connection with Crime No. 175/2017 registered in PS City Kotwali, Distt. Raigarh for offence punishable under Section 34 sub-section (1)(a) of the CG Excise Act.
3. Learned counsel for the applicant submits that charge sheet is not filed, the applicant is remanded by the CJM Raigarh. He is the first offender. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take time. As per allegation, 34.200 bulk litre liquor has been seized from the conscious possession of the applicant without any licence or permission. Therefore, the applicant may be enlarged on bail.
4. Learned State counsel opposes the bail application and submits that huge quantity of liquor has been seized from the applicant hence the bail application may be rejected. However he fairly conceded that no criminal antecedent of the applicant is reported by the police in the case diary.

5. Perused the matter.
6. Perused the order passed by the 2nd Additional Sessions Judge, Raigarh in Bail Petition No. 186/2017 dated 7-4-2017. It appears that the concerned Additional Sessions Judge has not mentioned the quantity of liquor seized which is a core issue for consideration. To appreciate the quantity, in the entire CG Excise Act word bulk litre, ml has been mentioned at appropriate places. The concerned Additional Sessions Judge is negligent while deciding the said bail petition.
7. The Sessions Judge Raigarh is directed to send copy of this order to the concerned Additional Sessions Judge directing him not to repeat this mistake again. Whenever he decides any petition, he has to mention complete facts which are just required for proper adjudication of the matter.
8. Now on due consideration, looking to the fact that the applicant is in jail for last one month and one day, charge sheet is not yet filed, trial may take some time, though quantity of seized liquor is on higher side, but no criminal antecedent is reported by the police and as submitted he will not repeat the offence, 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. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of the CJM Raigarh 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**

Pathak