

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2513 of 2017

- Neelkamal Sahu S/o Lalit Kumar Sahu, Aged About 29 Years, R/o Durga Chowk, Gurur, Police Station Gurur, District Balod Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Gurur, District Balod Chhattisgarh

---- Non-applicant

For Applicant – Shri B.P.Singh, Advocate.

For Non-applicant/State – Shri U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

11-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.129/17 on 04-4-2017 by P.S. Gurur, District Balod, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). After investigation charge sheet has been filed, which is pending before the CJM Balod, C.G., though learned counsel for the applicant is not in a position to state the said criminal case number. As per the allegation, from the applicant 8.64 bulk liter foreign liquor has been seized. The learned counsel for the applicant would further submit that earlier the applicant was held convicted in Criminal Case No.50/2011 vide judgment dated 18-07-2011 and sentenced for R.I. for 1 month and to pay fine of Rs.5000/-; against the said judgment the applicant preferred Criminal Appeal No.294/11; the appellate Court, Second Additional Sessions Judge Balod, C.G. vide judgment dated 08-08-2012 allowed the appeal preferred by the applicant and acquitted the applicant for the charges under Section 34(1)(a) of the Act, 1915. Police had filed another matter for Crime No.868/15 as Criminal Case No.16/2016; the CJM Balod vide judgment dated 3 December 2016 acquitted the applicant for the charges under Section 34(1)(a) of the Act, 1915. Learned counsel for

the applicant would further submit that the other matters registered against he applicant prior to the incident were in relation with preventive proceedings and some matters were bailable one. The applicant was granted bail in remaining matters, he was not convicted by any court. The applicant will not commit any offence in future. Trial may take some time. He may be granted bail during trial.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that as surfaced in the case diary 11 matters have been registered against the applicant including 4 matters for preventive Section of the Cr.P.C., one matter under Section 13 of the Gambling Act, 3 matters under Section 36(C) of the Act, 1915 and three matters under the relevant provisions of Section 34 of the Act, 1915. It goes to show the earlier criminal antecedent of the applicant. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant in custody since 3 months and 7 days till date, charge sheet has been filed, trial may take some time, though earlier as aforementioned 11 matters have been registered against the applicant, out of them 4 were in connection preventive proceedings, one in connection with Gambling Act, three were in connection with Section 36(C) of the Act, 1915 and in two aforementioned matters the applicant ultimately acquitted by the court, on consideration of the entire substance, I am 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 Balod, C.G. for his appearance before the said 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. 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. Gurur, District Balod, 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.

8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

9. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge