

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2615 of 2017**

Deepak Tiwari aged about 25 years, son of Om Prakash Tiwari, R/o
Sector- 11, Zone- 1, Behind Hanuman Mandir, Khursipar, Bhilai
District- Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through: Station House Officer, Police Station
Kharora, District- Raipur, Chhattisgarh.

---- Respondent

For applicant	Mr. C.B. Kesharwani, Adv.
For Respondent/State	Mr. O.P. Sahu, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****9/5/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 12-12-2016 in connection with Crime No. 176/2016 registered in PS Kharora, Distt. Raipur for offence punishable under Section 34 sub-section (2) of the CG Excise Act.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the matter is pending before the JMFC Raipur as Criminal Case No. 23934/2016. 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, the applicant was carrying 51.840 bulk litre liquor in a 4 wheeler SUMO bearing registration No. CG 06 B 3088 on 25-5-2016. When the police attempted to check the vehicle, the applicant absconded leaving the said SUMO vehicle and liquor at the spot. Later on he was arrested on 12-12-2016. He was identified after the statement of owner of the vehicle from whom he had taken the vehicle on rent, also by some other witnesses regarding his involvement. He is in jail for about 5

months. He submits that though quantity of the seized liquor is on higher side but looking to the fact that the incident is of 1 year's back, he may be granted bail.

4. Per contra, learned State counsel opposes the bail application and submits that the applicant absconded from the spot on 25-5-2016 and he was arrested only on 12-12-2016 and thereafter charge sheet was filed. Looking to the quantity of the liquor seized from the applicant, instant MCRC may be rejected.
5. Perused the matter.
6. On due consideration, as the applicant is in jail since about 5 months, he was not caught hold at the spot, later on he has been identified and as there is no criminal antecedent of him reported by the police, 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 JMFC Raipur CG for his appearance before the said Court regularly as and when directed by the said Court.
7. 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. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Kharora on every 1st and 3rd

Monday at 11 am positively till trial. If the applicant fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. CC as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**

Pathak