

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2689 of 2017**

Rajendra Nishad S/o Mangal Nishad, Aged About 26 Years R/o Village Udaypur, Police Station & Tahsil Chhuikhadan, District Rajnandgaon, CG.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Chhuikhadan, District Rajnandgaon, Chhattisgarh.

---- Respondent

For applicant	Mr. Abhishek Sharma, Adv.
For Respondent/State	Mr. Sumit Jhanwar, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11/5/2017**

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. 82/2017 registered in PS Chhuikhadan, Distt. Rajnandgaon for offence punishable under Section 34 sub-section (2) of the CG Excise Act.
3. Learned counsel for the applicant submits that charge sheet is not filed, the applicant is remanded by the ACJM, Khairagarh. This is his first application before this Court. 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. He further submits that earlier in Criminal Case No. 466/2015, JMFC Chhuikhadan acquitted the applicant vide judgment dated 29-8-2016 under Section 34(1)(a) of the CG Excise Act. As per allegation, 43.200 bulk litre foreign 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. Per contra, learned State counsel opposes the bail application on the ground of quantity of the liquor so seized i.e. 43.200 bulk litre foreign liquor. He submits that in addition to the present case and Criminal Case No. 466/2015, one matter under Section 34 sub-section (1)(a) of the Excise Act has been registered against the applicant hence

instant MCRC may be dismissed.

5. Perused the matter.
6. On due consideration, as the applicant is in jail since 1 month and 8 days and as aforementioned, the applicant is acquitted in the earlier matter, though one more matter has been registered against him that too for illegal possession of liquor below 5 litre, though in the present matter quantity of liquor is on higher side but on due consideration that as per submission 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. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the ACJM Khairagarh 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. 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