

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2734 of 2017

- Madan Ongre S/o Vijay Ongre, Aged About 27 Years, R/o Village Gada-Kusami, Thana Palari Tahsil, District Balodabazar-Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh through Station House Officer Police Station, District Balodabazar Bhatapara Chhattisgarh

---- Non-applicant

For Applicant – Shri N.K.Malaviya, Advocate.

For Non-applicant/State – Shri Wasim Miyan, 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.140/17 on 10-4-2017 by P.S. Palari, District Balodabazar-Bhatapara, 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 Balodabazar, C.G. as Criminal Case No. 241/2017. As per submission, 7 matters have been registered against the applicant as surfaced in the order sheet dated 16-05-2017 out of the said matters, for item No.6 Crime No.337/12 under Section 34(2) of the Act, 1915 it is submitted that police had filed the charge sheet which was registered as Criminal Case No.401/12. The JMFC Balodabazar, C.G. vide judgment dated 2 August 2013 acquitted the applicant. In another matter Crime No.35/12 under Section 34(1) of the Act, 1915, police had filed the charge sheet before the JMFC Balodabazar which was registered as Criminal Case No.52/12, the trial Judge vide judgment dated 25-04-2013 acquitted the applicant for the charges. The other two matters were in connection with preventive proceedings under the Cr.P.C. Two matters were registered under Section 36(C) of the Act, 1915

and one matter has been registered under Section 34(1)(a) of the Act, 1915. All the above 3 were bailable one. The applicant is never convicted by any criminal court. As per the allegation in the present matter, 117.18 bulk liter liquor has been seized from the applicant. He may be granted an opportunity to remain in bail during trial. He will not commit any offence in future.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant on the basis of the huge quantity of liquor so seized from the applicant and also the other matters registered aforementioned against the applicant.

4. Perused the entire material.

5. As the applicant in jail since 3 months and 1 day, charge sheet has been filed, trial may take some time, and as aforementioned in two matters the applicant is ultimately acquitted by the criminal court, two matters were in relation with preventive proceedings which are closed after a period of six months and three matters were bailable one, though in the present matter the quantity of liquor so seized is on the higher side, but on due consideration, 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.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the Chief Judicial Magistrate Balodabazar, Distt. Balodabazar-Bhatapara, C.G. for his appearance before the said trial 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. Palari, District Balodabazar-Bhatapara, 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