

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2739 of 2017

1. Arjun Kumar S/o Ramkumar Tandon, Aged About 26 Years
2. Amruram Tandon S/o Ramkumar Tandon, Aged About 24 Years

Both R/o Village Amethi, Police Station Suhela, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Of Police Station Suhela, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicants
For State

Shri Anil Gulati, Advocate.
Shri Neeraj Jain, Govt. Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order on Board

06-07-2017

1. Before argument, learned counsel for the applicants produced the certified copy of order sheet in connection with crime No. 116/2012 under Section 34 Sub-Section 2 of C.G. Excise Act, 1915 (in brevity 'Act of 1915') regarding applicant No. 2 -Amruram Tandon, regarding crime No. 58/2016 under Section 34 Sub-Section (1) (a) of the Act of 1915 of applicant No. 2 Amruram Tandon and also a true copy of judgment dated 15.01.2016 passed by Second Additional Sessions Judge, Baloda Bazar Chhattisgarh in Special Sessions Case No. 43/2015 under Sections 363, 366(A), 376(1) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in brevity 'POCSO Act'). The above documents are made part of the record. As per above documents the applicant No. 2 was granted bail in first two cases registered against him under the Act of 1915 and acquitted by the Additional Sessions Judge in Special Sessions case No. 43/2015.
2. Heard the matter finally.
3. The applicants have preferred this application for grant of bail as they are arrested on 16.03.2017 in connection with Crime No. 01/2017

registered in Police Station Suhela District Baloda Bazar Bhatapara (C.G.). for offence punishable under Section 34 sub-section (2) of Act of 1915.

4. Learned counsel for the applicants submits that after investigation charge sheet has been filed which is pending before Chief Judicial Magistrate Baloda Bazar, Chhattisgarh as criminal case No. 329/2017. Learned counsel for the applicants also submits that they shall not commit any offence in future if granted bail. As per allegation, both the applicants ran away from the spot and police seized 12.42 bulk litre country liquor from the spot on 31.12.2016, thereafter during investigation both the applicants were arrested on 16-3-2017. Charge sheet is filed. Trial may take some time. They may be granted opportunity to remain in bail during trial. Against applicant No. 1, one matter was registered under Section 34 sub-section (1)(a) of the Act of 1915 which was bailable one and another matter was in relation to preventive proceedings under Section 107 of the Cr.P.C. Against applicant No. 2, aforementioned matters have been registered and he was granted bail in first two matters in relation to the Act of 1915 and also he was acquitted in ST No. 43/2015. With this both the applicants are not convicted. They may be granted bail.
5. Per contra, learned counsel for the non-applicant/State opposes the argument advanced on behalf of the applicants on the basis of criminal antecedent registered against the applicants as aforementioned and also quantity of liquor so seized from the spot and with the fact that both the applicants ran away from the spot leaving the said liquor at the spot. Hence instant MCRC may be rejected.
6. Perused the entire material.
7. As both the applicants are in jail since three months and 20 days till date, charge sheet has been filed, trial may take some time, and as

aforementioned offence registered against A-1 was bailable one, in the offence registered against the applicant No. 2 in two matters, he was granted bail and in last matter he was acquitted by the Sessions Court and on consideration of entire fact, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them 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 Baloda Bajar, for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

8. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this court or the Hon'ble Apex Court intentionally, (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature: (iv) the trial Court finds that the applicants remain 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.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge