

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2756 of 2017

1. Naresh Kumar Chandrakar S/o Uttam Chandrakar, Aged About 40 Years, Caste Kurmi, R/o Kande, Police Station Doundi, District Balod, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station Doundi, District Balod, Chhattisgarh.

---- Non-applicant

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

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

15-05-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.15/17 on 03-04-2017 by P.S. Doundi, District Balod, C.G. for the offence under 34(2) of the C.G. Excise Act, 1915. Charge sheet has not yet been filed, the applicant is remanded by the CJM Balod. Learned counsel would further submit that earlier on allegation by Doundi police that the applicant was carrying 9.000 bulk liter country liquor, the applicant was tried by the CJM Balod, C.G. The Court below vide judgment dated 6 March, 2017 in Criminal Case No.1131/16 acquitted the applicant for the charges under Section 34(2) of the C.G. Excise Act, 1915, it goes to show that he is not earlier convict and police had not proved any material against the applicant. Though in the present matter it is alleged that the applicant was in custody of 31.500 bulk liter country liquor hand made. He was falsely implicated. He will not commit any offence in future. Trial may take some time. He may be granted bail.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant on the basis of the quantity of

liquor so seized and aforementioned matter where he was tried for the similar offence.

4. Perused the entire material.

5. On due consideration, as the applicant is in jail since one month and 12 days, though he was tried for similar offence earlier, but the Court below acquitted him for the charges and with this, the applicant is not a previous convict, on due consideration, though the quantity of liquor so seized in the present matter is on the higher side, but looking to the period of detention and other facts, I am inclined to grant one opportunity to the applicant so that he shall not involve in similar offence and remain 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 trial Court as and when directed by the trial Court.

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. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE