

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2755 of 2017**

Sunil Mishra S/o Suresh Mishra Aged About 22 Years R/o Ward No. 9,
Sevtapara Dongargaon District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Dongargaon, District
Rajnandgaon Chhattisgarh

---- Respondent

For applicant	Mr. Sumit Shrivastava, Adv. under the authority of Mr. Shaleen Singh Baghel, Adv.
For Respondent/State	Mr. Syed Majid Ali, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****5-6-2017**

1. Mr. Sumit Shrivastava, Adv. undertakes to file his power to represent the applicant during the course of the day.
2. Heard on I.A. no. 1/2017 for urgent hearing and I.A. No. 2/2017 for hearing the matter during summer vacation.
3. On due consideration, I.A. No. 1/2017 and I.A. No. 2/2017 are allowed.
4. Heard finally.
5. The applicant has preferred this application for grant of bail as he is arrested on 10-4-2017 in connection with Crime No. 136/2017 registered in PS Dongargaon, Distt. Rajnandgaon for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
6. Learned counsel for the applicant submits that charge sheet is not filed, the applicant is remanded by the CJM Rajnandgaon. This is his first bail applicant before this Court. 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, 5.400 bulk litre country liquor has been seized

from the conscious possession of the applicant without any licence or permission. Earlier against the applicant Crime No. 127/2017 was also registered by the Dongargaon police under Section 34 sub-section (2) of the CG Excise Act, 1915 for illegal possession of 63.00 bulk liter country liquor and he was alleged to be absconded from the spot and subsequently he was arrested in the said matter on 10-4-2017. Earlier one another matter being Crime No. 81/2014 has been registered under Section 34 sub-section (1)(a) of the CG Excise Act, the said matter was registered as Criminal Case no. 1007/2014, also re-registered as Criminal Case No. 368/2014. In the said matter, panch witnesses have been declared hostile and not the supported the case of the prosecution. Also the court below granted him bail. The applicant may be given an opportunity. He will not commit any offence in future.

7. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant on the basis of the aforementioned criminal antecedent and also that in the year 2015 on 29th June, Dongargaon police initiated preventive proceeding under Section 107 and 116(3) of the Cr.P.C. against the applicant hence instant MCRC may be rejected looking to the entire facts.
8. Perused the entire matter.
9. On due consideration, as the applicant is in jail since 1 month and 26 days, arrested in both the matters aforementioned and in the earlier matter quantity of liquor is on higher side and also another matter under Section 34(1)(a) of the CG Excise Act and preventive proceedings have been initiated, but looking to the period of detention and other facts, I am inclined to grant last 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. 30,000/- with one solvent surety of the like sum to the satisfaction of the CJM, Rajnandgaon (CG) for his appearance before the said Court regularly as and when directed by the said Court.

10. 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.

11. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge