

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2729 of 2017

- Santosh Jaiswal S/o Omprakash Jaiswal, Aged About 36 Years, By Caste Kalar, R/o Village Katghora, District Korba, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Katghora, District Korba Chhattisgarh

---- Respondent

For applicant	Mr. Nitesh Shrivastava, Advocate.
For Respondent/State	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

5-6-2017

1. Heard the matter finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 10-04-2017 in connection with Crime No.98/2017 registered in P.S. Katghora, District Korba, C.G. for offence punishable under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915').
3. Learned counsel for the applicant would submit that charge sheet has not yet been filed, the applicant is remanded by the JMFC Katghora, District Korba, C.G. Learned counsel for the applicant would further submit that though earlier as per order sheet dated 12-05-2017, four matter under Section 36(C) of the Act, 1915 has been registered, in one matter in Criminal Case No.299/2005 the applicant held convicted for fine of Rs.500/- under Section 36(B) of the Act, 1915 and in remaining other matter either the applicant was not able to get certified copy of the judgment or as per other note of the copying section the matter was not disposed of on a date given by the applicant, though all the remaining matter reported against the

applicant were under Section 36(C) of the Act, 1915, there is no any matter registered against the applicant under Section 34(2) of the Act, 1915 except the present matter. The applicant is in jail since one month and 26 days. He will not commit any offence in future. He may be granted bail, though as per the allegation, 43.370 bulk liter liquor has been seized from the applicant.

4. Per contra, learned counsel for the State/respondent opposed the argument advanced on behalf of the applicant and would submit that criminal record of the applicant shows his earlier criminal antecedents though only under Section 36(C) of the Act, 1915 and as the liquor has been seized from the restaurant and the house of the applicant, looking to the quantity of the liquor so seized, the instant MCRC may be dismissed.
5. Perused the entire matter.
6. On due consideration, as the applicant is in jail since 1 month and 26 days, though he had other criminal antecedents in connection with Section 36(C) of the Act, 1915 and the quantity of liquor is on higher side, but on due consideration, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime in future. 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/- (Rs. One Lac) with two solvent sureties of Rs. 50,000/- each to the satisfaction of the Judicial Magistrate First Class Katghora, District Korba, CG for his appearance before the said trial Court as and when directed till trial.
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; 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.

8. 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. Katghora, District Korba, 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.
9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge