

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2753 of 2017**

- Abhimanyu Chere S/o Sukhram, Aged About 20 Years R/o Village Hasaldaag, Police Station Manatpur, District Gadwa (Jharkhand)

---- Applicant

Versus

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

---- Respondent

For applicant	Mr. Sumit Shrivastava, Adv.
For Respondent/State	Ms. K. Tripti, PL.

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

1. Heard on I.A. no. 1/2017 for urgent hearing and I.A. No. 2/2017 for hearing the matter during summer vacation.
2. On due consideration, I.A. No. 1/2017 and I.A. No. 2/2017 are allowed.
3. Heard finally.
4. The applicant has preferred this application for grant of bail as he is arrested on 17-3-2017 in connection with Crime No. 109/2017 registered in PS Dongargaon, Distt. Rajnandgaon for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
5. Learned counsel for the applicant submits that this is his first bail applicant before this Court. He has no criminal antecedent. He is in jail for last 2 months and 20 days till date. As per information, charge sheet is not yet filed and the learned counsel for the applicant that may be charge sheet has been filed before the court below and may that the applicant has been granted bail under Section 161 sub-section (2) proviso (ii) of the Cr.P.C. but as there is no any

communication from the applicant he is not in a position to state the correct facts. As per allegation 69.120 bulk litre foreign liquor has been seized from the conscious possession of the applicant. He will not commit any offence in future if granted bail. He may be granted an opportunity to live in the society peacefully without committed any crime.

6. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant and submits that though the office of Advocate General has received the case diary but there is no material in the case diary regarding filing of the charge sheet or any other relevant matter hence it may be presumed that charge sheet is not yet filed and looking to the huge quantity of the liquor so seized from the applicant, the instant MCRC may be dismissed. However he fairly conceded that no criminal antecedent is reported against the applicant in the case diary.
7. Perused the entire matter.
8. On due consideration of the submission made by the parties and other facts surfaced at the time of hearing, the applicant is in jail since 2 months and 20 days and as submitted charge sheet is not yet filed, there is no criminal antecedent of the applicant, though quantity of the liquor so seized from the applicant is on higher side and police has also seized one SUMO vehicle registration No. CG 07 T 1202, on consideration of entire 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. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the CJM, Rajnandgaon (CG) for his appearance before the said Court regularly as and when directed by the said Court.

9. 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. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Dongargaon on every 1st and 3rd Monday at 11 am positively till trial. If the applicant fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. C.c. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge