

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2875 of 2017**

Samsher S/o Shyamlal Sonwani, Aged About 32 Years R/o
Village Parsada, Police Station Gobra Nayapara, Tahsil And
District Raipur CG

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police
Station Gobra Nayapar, Raipur, District Raipur Chhattisgarh

---- Respondent

For applicant	Mr. C.R. Sahu, Adv.
For Respondent/State	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

24/7/2017

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 4-3-2017 in connection with Crime No. 52/2017 registered in PS Gobra Nayapara, Distt. Raipur (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the matter is pending before the JMFC, Raipur as Cri. Case No. 3344/2017. 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, 25.560 bulk litre country liquor has been seized from the joint possession of the applicant and the co-accused Kamlesh. Co-accused Kamlesh has been granted bail by this Court in MCRC No. 1881/2017. It is submitted that earlier two matters have been registered against the present applicant in relation to Crime No. 196/2010 and 30/2017 under Section 34 sub-section (1)(a) of the CG

Excise Act, 1915 which are bailable one. As per allegation, 10.800 bulk litre liquor was earlier seized from the applicant in connection with Crime No. 148/2016. In the said matter, the applicant was granted bail by the trial Court and the matter is pending. One more matter is regarding seizure of 0.900 bulk litre liquor. Charge sheet has been filed against the applicant which is registered as Criminal Case No. 18665/2016 in Crime No. 364/2016 and the JMFC Raipur vide judgment dated 23-3-2017 has acquitted the applicant for the charges under Section 34 sub-section (1)(a) of the Act of 1915. Learned counsel for the applicant submits that the applicant may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant on the basis of the quantity of liquor so seized from the applicant and also on the basis of criminal antecedents of the applicant.
5. Perused the matter.
6. On due consideration, as the applicant is in jail since about 4 months and 20 days till date, charge sheet has been filed, trial may take some time, though earlier aforementioned criminal cases have been registered against the applicant but looking to the entire facts of the case, 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. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of the JMFC, Raipur CG for his appearance before the said Court regularly

as and when directed by the said Court.

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: (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 Gobra Nayapara, Distt. Raipur (CG) on every 1st and 3rd Monday at 11 am positively till trial. If the applicant fails 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.
8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.
9. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge