

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3481 of 2017

- Mahendra Kumar Agrwal S/o Shri Babulal Agrawal, Aged About 38 Years, R/o Village - Tendukona, Thana- Tendukona, Civil & Revenue District- Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through the Tendukona, District- Mahasamund, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Sunil Sahu, Advocate.

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

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

31-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.24/2017 on 01-4-2017 by P.S. Tendukona, District- Mahasamund , C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915. After investigation police had filed the charge sheet which is pending before the CJM Mahasamund, C.G. as Criminal Case No. 472/2017. Learned counsel for the applicant would also submit that the applicant is in custody since long. No any liquor has been seized from the applicant. The applicant is made accused only on the basis of disclosure statement of the co-accused; the seizure was effected and thereafter the disclosure statement of the applicant was recorded. The seizure is from the house of Gokul Gond. The applicant informed the remand Court that he was arrested on 02-04-2017 and after committing *maarpeet* signature in the disclosure statement is taken and as per the facts of the case, only 3.060 bulk liter liquor has been seized from the applicant and as stated by the applicant in his application that he is acquitted in all the matters earlier registered against him, hence, he may be enlarged on bail.
3. Per contra, learned counsel for the non-applicant/State opposed the

argument advanced on behalf of the applicant and would submit that the disclosure statement of the applicant is recorded on 01-04-2017 at 6.30 p.m. and the seizure from co-accused Gokul Gond is effected at 7.00 p.m. on the same day in the said seizure 765 bulk liter liquor has been seized from the said Gokul Gond; address of the Gokul Gond was informed by the present applicant and also the following matters have been registered against the applicant prior to the incident:-

Sl. No.	Date	Section
01.	10-03-2014	under Section 13 of the Public Gambling Act, 1867,
02.	15-05-2014	under Section 34(2) of the C.G. Excise Act, 1915,
03.	22-07-2008	under Section 3/7 of the Essential Commodities Act, 1955,
04.	30-09-2011	under Section 286 of the IPC and Section 3/7 of the Essential Commodities Act, 1955,
05.	26-05-2013	under Section 34(2) of the C.G. Excise Act, 1915.

Hence, prayed that the instant MCRC may be dismissed.

4. Perused the entire material.

5. In absence of any document filed on behalf of the applicant it cannot be held that the applicant is acquitted in all the above matters. Also the memorandum statement of the applicant is recorded half an hour prior to the seizure whereby the said huge amount of liquor has been seized, even as per provision of Section 27 of the Evidence Act "so much of such information" is attracted in the matter wherein the applicant shown the house of the co-accused from which the liquor was seized and also there are written complaint against the applicant to the police regarding involvement of the present applicant. On consideration of the entire facts, as 765 bulk liter country liquor has been seized after disclosure statement of the present applicant and looking to the other criminal antecedent, I am not inclined to grant bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge