

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3511 of 2017**

Salim @ Sonu S/o Mohammad Bashir, Aged About 28 Years R/o Bhilai,
Power House Sector- 11, Road No. 16, Beside Durga Manch, Near
Sonu Kirana Stores, Police Station - Chhawani, District- Durg, CG.

---- Applicant**Versus**

State Of Chhattisgarh S/o Through Station House Officer, Police
Station Vidhansabha, Raipur, District- Raipur, Chhattisgarh

--- Respondent

For applicant	Mr. Shokie Yadav, Adv.
For Respondent/State	Mr. Arvind Shukla, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11/7/2017**

1. At the outset, learned counsel for the applicant placed certified copy of the order dated 9-1-2017 passed in a matter arise out of Crime No. 15/2016 under Section 379, 411, 34 of the IPC and order sheet of other dates showing release of the applicant in the said matter under the provisions of Section 167 sub-section (2) of the Cr.P.C. whereby the applicant was granted bail.
2. Certified copy produced by the counsel is made part of the record.
3. Heard the matter finally.
4. The applicant has preferred this application for grant of bail as he is arrested on 16-11-2016 in connection with Crime No. 40/2016 registered in PS Vidhansabha, Raipur for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
5. 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. 4246/2016. The applicant is in custody since long. Trial may take some. As per allegation, on 29-1-

2016, the applicant and co-accused Sahban Ali alias Damru were going in a Maruti 800 car bearing registration No. CG04 ZD 1224 when the police stopped the car on suspicion. The present applicant managed to run away from the spot and the police seized 90 bulk litre country liquor from co-accused Shahban Ali alias Damru on 29-1-2016. Thereafter police filed charge sheet against co-accused showing the present applicant as absconding. The present applicant is arrested on 16-11-2016 on a non-bailable warrant of arrest issued against him. The co-accused Shahban Ali alias Damru preferred an MCRC No. 4347/2016 which is disposed of as withdrawn on 8-8-2016 with liberty to revive the same after examination of the seizure witnesses. He further submits that there is no actual seizure effected from the applicant, also he was granted bail in the matter registered as Crime No. 15/2016 under Section 379, 411, 34 of the IPC on 9-1-2017 as the investigating agency failed to submit charge sheet within specific time in the matter. Hence the applicant and the co-accused were granted bail under Section 167 sub-section (2), Cr.P.C. He will not commit any offence in future. He may be granted bail during trial.

6. Per contra learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant and submits that the applicant successfully ran away from the spot on the date of incident. He was carrying 90 bulk litre country liquor along with co-accused Shahban Ali alias Damru. Also another matter as aforementioned has been registered against him. Hence instant MCRC may be dismissed.
7. Perused the entire material.
8. As the applicant is in custody since 7 months and 25 days till date, no actual seizure has been effected from the applicant, charge sheet has been filed, trial may take sometime, though as per allegation he was in the said car at the time of incident, upon consideration of entire facts including period of detention, 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 JMFC, Raipur 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 Vidhansabha, Raipur 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.

10. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge