

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4238 of 2017

- Anduj Kumar Banjare S/o Late Tilakram Banjare, Aged About 34 Years, R/o Village Gondpendry, Tehsil Patan District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate District Durg Chhattisgarh

---- Non-applicant

For Applicant – Shri Avinash Chand Sahu, Advocate.

For Non-applicant/State – Shri U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

26-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.65/2017 on 09-03-2017 by P.S. Utai, District Durg, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). After investigation police had filed the charge sheet which is pending before the JMFC Patan, District Durg, C.G., but learned counsel for the applicant is not aware of the criminal case number. As per the allegation, from the applicant 6.300 bulk liter country liquor has been seized. He will not commit any offence in future. He may be granted an opportunity to remain in bail during trial. Learned counsel for the applicant would further submit that earlier following matters have been registered against the applicant:

Sl.No.	Crime No.	Section
01.	283/15	34(1)(a) of the Act, 1915
02.	61/16	34(1)(a) of the Act, 1915
03.	232/16	34(2) of the Act, 1915 .

Learned counsel for the applicant would submit that out of the aforesaid three matters two were bailable one and in the third matter the applicant has been granted bail by the coordinate Bench in MCRC No.6178/2016 vide order dated 05-10-2016, the matter is yet pending. The applicant is not a convict.

Now, he will not commit any offence in future. He may be granted bail during trial.

3. Per contra, learned counsel for the State/non-applicant opposed the argument advanced on behalf of the applicant on the basis of the aforementioned three matters registered against the applicant.

4. Perused the entire material.

5. As the applicant is in custody since four months and 17 days till date, charge sheet has been filed, trial may take some time, in the present matter quantity of liquor so seized is 6.300 bulk liter, though earlier 3 matters have been registered, but as per the facts, two were bailable one and in the third matter the applicant was granted bail by the coordinate Bench, on consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with two solvent sureties of Rs. 25,000/- each to the satisfaction of the Judicial Magistrate First Class Patan, District Durg, C.G. for his appearance before the said Court as and when directed till trial.

6. 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.

7. 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. Utai, District Durg, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of the 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.

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. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge