

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3730 of 2017

- Santosh Kumar Bhardwaj S/o Narad Bhardwaj, Aged About 40 Years, R/o Village Borsi, Police Station & Tahsil Pamgarh, Janjgir Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O. Pamgarh, Janjgir-Champa, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Ravindra Sharma, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

04-07-2017

1. Heard on I.A.No.1/2017 for urgent hearing.
2. On due consideration, the same is disposed of.
3. Also heard the matter finally as the case diary is available with learned counsel for the non-applicant/State.
4. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.110/2017 on 05-4-2017 by P.S. Pamgarh, Distt. Janjgir-Champa, 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 before the CJM, Janjgir as Criminal Case No.322/17. As per the allegation, 63 bulk liter country liquor has been seized from the applicant. As earlier 7 cases have been registered against the applicant as surfaced on order sheet dated 22-06-2017, for item No.1 it is submitted that in Crime No.101/15 the charge sheet has been filed before the JMFC Pamgarh, Distt. Janjgir-Champa which was registered as Criminal Case No.217/15 and the trial Court vide judgment dated 03-10-2016 acquitted the applicant for the charges. The other matters were in relation with preventive proceedings and also with Section 36(C) of the Act, 1915; all the said matter have been disposed of, the

applicant was sentenced to pay fine in item No.3, 4, 5 and 6. For item No.7 it is submitted that the applicant was granted bail as the matter was bailable one. Trial may take some time in the present matter. The applicant will not commit any offence in future. He may be granted bail during trial.

5. Per contra, learned counsel for the State/non-applicant opposed the argument advanced on behalf of the applicant on the basis of many matters registered against the applicant prior to the incident also as the quantity of liquor so seized from the applicant in the matter is on the higher side.

6. Perused the entire material.

7. As the applicant is in custody since 3 months, charge sheet has been filed, trial may take some time, as aforementioned he was acquitted by the trial Court in a matter which was also bailable one, the applicant was not convicted by any Court for the similar or any other offence, 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 crime 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.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the Chief Judicial Magistrate Janjgir, Distt. Janjgir-Champa, C.G. for his appearance before the said Court as and when directed till trial.

8. 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.

9. 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. Pamgarh, Distt. Janjgir-Champa, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of 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.

10. 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.

11. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE