

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3760 of 2017

- Ghasiram S/o Makundram Satnami, Aged About 40 Years, R/o Pota, Police Station Malkharoda, District Janjgir-Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Malkharoda, District Janjgir-Champa, Chhattisgarh.

---- Non-applicant

For Applicant – Shri C.P. Lahrey, Advocate.

For Non-applicant/State – Shri N.K.Mehta, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

11-07-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.55/17 on 31-3-2017 by P.S. Malkharoda, District 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 charge sheet has been filed, which is pending before the CJM Janjgir, Distt. Janjgir-Champa, C.G. as Criminal Case No.337/17. As per the allegation, 9.360 bulk liter country liquor has been seized from the applicant. Learned counsel for the applicant would submit that earlier Crime No. 173/14 has been registered against the applicant under Section 34(1)(a) of the Act, 1915; the same was registered by the JMFC Malkharoda, Distt. Janjgir-Champa, C.G. as Criminal Case No.241/14, the trial Judge vide judgment dated 30-07-2016 acquitted the applicant by affording benefit of doubt. Earlier, also Criminal Case No.159/16, 29/15, 79/15, 216/13, 102/12 and 51/12 were registered against the applicant before the JMFC Malkharoda, District Janjgir-Champa, C.G. under Section 36(C) of the Act, 1915; in all the above matters the applicant admitted the guilt and the trial Court gave fine sentence to the applicant, in above 6 matters fine of Rs. 1000/-, Rs.2000/-, Rs.2000/-, Rs.1000/-, Rs.500/- and Rs.1000/- in

respective cases was imposed along with default sentence, the applicant deposited the fine amount in all the above 6 matters. The applicant will not commit any offence in future. Trial may take some time. He may be granted an opportunity to remain in 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 quantity of liquor so seized from the applicant and also as in above 6 matters the applicant is a convict under Section 36(C) of the Act, 1915.

4. Perused the entire material.

5. As the applicant is in custody since 3 months and 12 days, charge sheet has been filed, trial may take some time, quantity of liquor so seized in the present matter is 9.360 bulk liter country liquor and as aforementioned the applicant is sentenced to pay fine in above 6 matters, as submitted on behalf of the applicant that he will not commit any offence now in future, 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.50,000/- with two solvent sureties of Rs.25,000/- 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.

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. Malkharoda, District 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.

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