

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4004 of 2017**

Dhaneshwar Prasad Chaudhary S/o Late Premram, Aged About 50 Years R/o Village Kenapara Telaikachhar, Police Station Jainagar, Tahsil & District Surajpur, CG.

---- Applicant

Versus

State of Chhattisgarh through Station House Officer, Police Station Jainagar, District Surajpur, CG.

---- Respondent

For applicant	Mr. Sushil Dubey, Adv.
For Respondent/State	Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****4-9-2017**

1. Heard on I.A. No. 2/2017/ for taking additional document on record.
2. On due consideration, I.A. No. 2/2017 is hereby allowed. The documents annexed with the application are taken on record if otherwise admissible.
3. Heard finally.
4. Applicant has preferred this application for grant of bail as he is arrested on 17-4-2017 in connection with Crime No. 113/2017 registered in PS Jai Nagar, Distt. Surajpur (CG) 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 same is pending before the CJM Surajpur however learned counsel is not in a position to state the criminal case number. This is his first bail application before this Court. He is first offender. He submits that earlier one matter for preventive proceeding was initiated on 16-8-2004 but after the expiry of statutory period of 6 months, the said proceedings automatically stopped. One

more matter Crime No. 202/2005 was also registered against the present applicant and other co-accused under Section 148, 323 read with Section 149 (on 3 counts), 307 r/w. 149, 506-II r/w Section 149 of IPC and convicted by the Additional Sessions Judge, Surajpur in ST No. 61/2006 on 7-4-2007 and sentenced RI for 6 months, 6 months, 6 months, 6 months, 5 years, 3 months with a direction that all the substantive jail sentences shall run concurrently and also fine sentence of Rs. 300/-. Against said conviction, present applicant and other convicts had preferred Cr.A. No. 316/2007. This High Court vide order dated 30-7-2007 suspended the substantive jail sentences granted bail to all the convicts including present applicant. With this applicant is in bail. Said criminal appeal is pending. There is good chance for acquittal of the applicant in the matter. He will not commit any offence in future. As per allegation, from the applicant 20 bulk litre hand made country liquor has been seized. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take some time.

6. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant on the basis of the quantity of the liquor so seized from the applicant and also the criminal antecedent of the applicant and his conviction. Hence he prays that instant MCRC may be dismissed.
7. Perused the matter.
8. As the applicant is the first offender, he is in custody since 4 months and 19 days till date, charge sheet has been filed, trial may take some time, though applicant is convicted as aforementioned but the said conviction passed by the Sessions Court is more than 10 years old, sentence is suspended, the applicant is released on bail and as submitted he will not commit any crime in future and considering entire facts of the case, I am inclined to grant one 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. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of the CJM Surajpur 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge