

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4340 of 2017**

Mahesh Sahu S/o Suklal Alias Sukhlal, Aged About 26 Years R/o
Budhwari Para, Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Dongargarh, District
Rajnandgaon, Chhattisgarh.

---- Respondent

MCRC No. 4344 of 2017

Raju Sahu S/o Ishwar Sahu Aged About 26 Years R/o Budhwari Para,
Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Dongargarh, District
Rajnandgaon, Chhattisgarh.

---- Respondent

MCRC No. 4348 of 2017

Bablu Sahu S/o Ramesh Sahu, Aged About 27 Years R/o Budhwari
Para, Dongargarh District Rajnandgaon (Chhattisgarh).

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Dongargarh District
Rajnandgaon (Chhattisgarh).

---- Respondent

For applicants	Mr. Shaleen Singh Baghel, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****9-8-2017**

1. As above three MCRCs arise out of same incident and crime number, they are being disposed of by this common order.
2. Heard the matter finally.
3. The applicants have preferred these applications for grant of bail as they are arrested on 7-6-2017 in connection with Crime No. 173/2017 registered in PS Dongargarh Distt. Rajnandgaon (CG) for offence

punishable under Section 34 sub- section (2) of the CG Excise Act, 1915.

4. It is submitted by learned counsel for the applicants that after investigation police filed charge sheet against 4 accused persons Mahesh Sahu, Raju Sahu, Bablu Sahu and Sahil Meshram which is registered as Criminal Case No. 2041/2017 and pending before the CJM Rajnandgaon (CG). Co-accused Sahil Meshram has been granted bail by this Court in MCRC No. 4167/2017. In the present matter, total 22.860 bulk litre foreign liquor has been seized from 3 accused except Mahesh Sahu. As per allegation, all the four accused were in two motorcycles and police seized the aforementioned liquor and two motorcycles. Charge sheet is filed. The applicants will not commit any offence in future. They may be granted bail. It is further submitted that all the applicants are not convicted earlier though some cases were registered against them wherein quantity of liquor so seized was not on higher side and also applicant Bablu Sahu is acquitted by the Judicial Magistrate First Class, Rajnandgaon in relation to Crime No. 448/2015 which was registered as Criminal Case No. 3676/2015 vide judgment dated 31-5-2017. Also as the applicants are aged about 26 and 20 years, they may be granted bail.
5. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants on the basis of total quantity of liquor so seized from the joint possession of 3 aforementioned accused and also as following matters have been registered against the applicants prior to the incident:

Mahesh Sahu

Sr. No.	Complaint/ Crime No.	Offence u/S.	Quantity
1.	Crime No. 338/2014	34 (2), CG Excise Act, 1915	8.600 litre
2.	Crime No. 256/2016	36(C), CG Excise Act, 1915	

Raju Sahu

Sr. No.	Complaint/ Crime No.	Offence u/S.	Quantity
1.	Crime No. 597/2015	34(2) CG Excise Act, 1915	7.800 bulk litre
2.	Comp. No. 279/2014	107,116(3) Cr.P.C.	
3.	Comp. No. 104/2015	151, Cr.P.C.	

Bablu Sahu

Sr. No.	Complaint/ Crime No.	Offence u/S.	Quantity
1.	Crime No. 448/2015	34(2), CG Excise Act, 1915	6.300 bulk litre
2.	Crime No. 535/2016	36(C), CG Excise Act, 1915	

Learned counsel submits that in view of criminal antecedents of the applicants, instant bail applications may be dismissed.

- 6. Perused the entire matter.
- 7. As the co-accused Sahil Meshram has already been granted bail, case of 3 applicants is similar to that of said co-accused Sahil Meshram, all the three accused are in custody since 2 months and 2 days till date, charge sheet is filed, trial may take some time, looking to the fact that against each of the applicants, one matter under Section 34 sub-section (2) of the CG Excise Act, 1915 has been registered but looking to the quantity seized in those matters and also as accused Bablu is acquitted by the criminal court, and other matters relate to Section 36(C) of the CG Excise Act and they are bailable one and rest matters relate to preventive proceedings initiated against applicant Raju Sahu, on consideration of entire facts, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRCs are allowed. The applicants are directed to be released on bail on each of their 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

Rajnandgaon for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

8. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this court or the Hon'ble Apex Court intentionally, (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Dongargarh, Distt. Rajnandgaon on every 1st and 3rd Monday at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remain absent without any cogent and proper reason as directed, the bail granted to applicants 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.
9. 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.
10. Copy of this order be placed in the file of MCRC No. 4344/2017 and MCRC No. 4348/2017.
11. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge