

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4283 of 2017**

- Akash Gajbhiye, S/o Kedar Gajbhiye, Aged About 23 Years, R/o Abadipara Potiya, P.S. Pulgaon, Durg, Tehsil And District Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through District Magistrate District Durg, Chhattisgarh.

---- Respondent

For Applicant : Shri Avinash Chand Sahu, Advocate
 For Respondent/State : Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11.10.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No.36/17 on 24/08/2017, Police Station Pulgaon, Distt. Durg, (C.G.) for the offence under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant would submit that after investigation police had filed charge-sheet which is presently pending before the Judicial Magistrate First Class, Durg (C.G.) as Criminal Case No.1641/17. Learned counsel for the applicant would submit that as per allegation, from the applicant 10.080 bulk litre country liquor has been seized. He will not commit any offence in future. He is in custody since about 9 months though against the

applicant following matter has been registered prior to the incident as submitted by the respondent/State.

S.No.	Crime No.	Under Section
01.	400/09	324 of the Indian Penal Code.
02.	348/13	294, 506, 393 of the Indian Penal Code.
03.	77/15	25 & 27 of the Arms Act, 1959.
04.	38/16	294, 506, 323 of the Indian Penal Code.
05.	149/16	34(2) of the Chhattisgarh Excise Act, 1915.

But the applicant is not convicted in any of the matter, but as the applicant is in custody he had no helping hands so that he may take out the certified copy of the matter pending aforementioned and looking to his long detention, he may be considered for bail.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant would submit that looking to the aforementioned matter registered against the applicant shown the criminal antecedent of the applicant. Hence, the instant MCRC may be dismissed.

5. Perused the entire matter.

6. As the applicant is in custody since 8 months and 23 days till date, charge-sheet has been filed, trial may take some time, though against the applicant aforementioned matter has been registered. But there is no matter to demonstrate on behalf of the State, whether the applicant is convicted in any of the matter. On due consideration, of the long detention of the applicant, I am inclined to grant one last opportunity to the applicant that he shall not commit any offence in

future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC is allowed.

8. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.30,000/- with one solvent surety of like some amount to the satisfaction of Judicial Magistrate First Class, Durg (C.G.) 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. It is further directed that till the conclusion of the trial, present applicant shall mark their appearance before the Station House Officer/IO, Police Station Pulgaon, Distt. Durg **on First and Third Monday of every month at 11:00 am.** It is further made clear that if the applicant fails to do so, the concerned police may inform the trial Court for the act and if their non-appearance found to be without any proper and cogent reason, the instant order granting bail to the

applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Register (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge