

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4544 of 2017**

Dinesh Nirmalkar S/o Rajkumar Nirmalkar, Aged About 20 Years R/o
Village Lokhandi, Police Station Koni, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Koni, District Bilaspur, Chhattisgarh.

---- Respondent

For applicant	Ms. Meenu Banerjee, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11/8/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 9-6-2017 in connection with Crime No. 189/2017 registered in PS Koni, Distt. Bilaspur (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
3. Learned counsel for the applicant submits that after investigation charge sheet has been filed and the matter is pending before the JMFC, Bilaspur as Criminal Case No. 2070/2017. He is the first offender. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take some time. As per allegation, 92.160 bulk litres of liquor has been seized from the conscious possession of the applicant. He submits that earlier Crime No. 1/2015 was registered against the applicant which was registered as Criminal Case No. 288/2015 however the JMFC Bilaspur vide judgment dated 27-4-2015 acquitted him of the offence. With this the applicant is not a convict. He will not commit any offence in future hence looking to his age i.e. 22 years he may be granted bail.
4. Learned counsel for the applicant produced the certified copy of the

order passed in Criminal Case No. 288/2015 judgment dated 27-4-2015. The same is made part of the record.

5. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant on the basis of huge quantity of the liquor so seized from the applicant and also as earlier one matter was registered against him.
6. Perused the entire matter.
7. As the applicant is in jail since 2 months and 2 days till date, charge sheet has been filed, trial may take some time and as aforementioned ultimately the applicant was acquitted in the matter registered earlier against him, though in the present matter, huge quantity of liquor has been seized from the applicant but considering the 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. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the JMFC Bilaspur for his appearance before the said Court regularly as and when directed by the said Court.
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; (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Koni, Distt. Bilaspur on every

1st and 3rd Monday at 11 am positively till trial. If the applicant fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicant remains absent without any cogent and proper reason as directed, the bail granted to applicant 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. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge