

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4972 of 2017**

- Ramlal Kulharia, S/o Late Brajlal Kulharia, R/o Dumerkherva (Andi), Police Station Pendra, District Bilaspur Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Pendra, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant : Shri Ajay Ayachi, Advocate.

For Respondent/State : Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****25.08.2017**

Heard finally.

2. The applicant has preferred this application for grant of bail as he is arrested on 26/06/2017, in connection with Crime No. 167/2017, registered in Police Station Pendra, Distt. Bilaspur (C.G.) for offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicants submits that charge-sheet is not yet filed and the applicant has been remanded by the Judicial Magistrate First Class Pendra, Distt. Bilaspur (C.G.). Learned counsel for the applicant would submit that he is the first offender and not involved in similar offence earlier. He will not commit any offence in future and as per allegation the police had seized one Scorpio bearing Registration No. CG 13 UB 0749 and one mobile

and also so seized 17.640 litre foreign liquor from the co-accused Lallan Gupta. Lallan Gupta is also arrested by the concerned police. He had not preferred any MCRC. Earlier a Crime No. 167/2017 under Section 395, 398, 402 and 450 of the IPC has been registered against the applicant and one co-accused Santosh Kewat. The matter was tried by the Additional Sessions Judge (FTC) Pendra, Distt. Bilaspur (C.G.). As Session Trial No. 52/7, the Trial Judge vide judgement dated 07/07/2008, acquitted, the present applicant and the co-accused for the charges. With this there is no criminal antecedent reported against the applicant, he may be enlarged on bail.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant and would submit that as one matter, as aforementioned registered against the applicant and looking to the facts in the present matter the instant MCRC may be dismissed.

5. Perused the matter.

6. As the applicant is the first offender, he is in custody since 1 month 26 days till date, charge-sheet is not yet filed, the police during investigation had seized one Scorpio and one mobile from the applicant. As per allegation, said Scorpio vehicle has been used for the transportation of foreign liquor 17.640 bulk litre which was ultimately seized by the co-accused. On consideration of entire facts, I am inclined to grant one opportunity to the applicant to live peacefully in the society without committing any crime.

7. Consequently, instant MCRC is allowed.

8. The applicant is directed to be released on bail on his

furnishing a personal bond in the sum of sum of Rs.50,000/- with two solvent sureties each of Rs.25,000/- to the satisfaction of the JMFC Pendra, Distt. Bilaspur (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. The applicant is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Pendra **on every 1st and 3rd Monday at 11:00 am** 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 reason 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.

10. Register (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 respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

11. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Judge