

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4986 of 2017**

Anil @ Gudwa (Anil @ Guddu Soni, written in the earlier bail order)
S/o Shri Vijay Soni Aged About 22 Years (32 years mention in the
earlier bail order), R/o Soni Bhavan Near Maszid, Supela Bhilai, Tahsil
& District Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Supela, District Durg CG.

---- Respondent

For applicant	Mr. Rajesh Jain, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****23-8-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 3-9-2009 in connection with Crime No. 466/2009 registered in PS Supela, Distt. Durg (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 same was pending before the CJM Durg as Cr. Case No. 2186/2009 and thereafter it is pending before the JMFC, Durg as Cri. Case No. 1718/2009. Supela police filed charge sheet against the present applicant and co-accused Kaminder. As per allegation, from the present applicant 26.820 bulk litre country liquor was seized. Present applicant and the co-accused Kaminder preferred MCRC No. 2890/2009 and MCRC No. 3020/2009. Coordinate bench of this court disposed of both the MCRCs by common order dated 13-1-2010 and directed released of the applicants on bail on their furnishing persons bond of Rs. 30,000/- with two solvent sureties of Rs. 15,000/- each to the satisfaction of the

CJM Durg. In compliance of that order, the applicant was released on bail and thereafter was taking part in the trial. On 5-8-2013 he was absent and not participated in the trial. With this the trial Court proceeded against the applicant, also issued warrant of arrest/ permanent warrant of arrest. The applicant was again arrested on 12-6-2017 and till date he is in custody. Co-accused Kaminder is still absconding. The applicant remained absent for 3 years, 10 months and 7 days, not participated in the proceedings of trial Court. At the time of incident, he was aged about 22 years. On account of death of his father he went to his home village and thereafter on account of some difficulty not returned. With this he was not in a position to locate the matter for his appearance. Now he will appear regularly in the trial. He may be given one opportunity.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf the applicant and submits that as the applicant remained absent and not cooperated in the trial for a long time hence instant MCRC may be dismissed.
5. Perused the entire material.
6. Considering the entire facts of the matter, the trial Court is directed that if not already proceeded, to register MJC against the applicant and his two sureties under Section 446 of the CRPC and after affording opportunity of hearing to the parties, decide the said MJC regarding forfeiture and realization of the bond/surety amount from the applicant and two sureties under Section 446 and other relevant provisions of law.
7. Also considering the entire facts of the case, as the applicant is in jail since 2 months and 11 days till date, with this to some extent he has tasted the post effect of his non-appearance, the bail granted by the coordinate bench does not have any cancellation condition, 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. Consequently, instant MCRC is allowed. It is directed that after deposit of amount whatever deems fit by the trial Court by the applicant and the sureties as the case may be, as directed above, the applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 30,000/- with two solvent sureties of Rs. 15,000/- each to the satisfaction of the JMFC, Durg CG 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge