

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5035 of 2017

- Asgar Ali S/o Late Nazab Ali, Aged About 20 Years, R/o Near Rajbandha Maidan, Moudahapara, Raipur Tahsil and District Raipur Chhattisgarh Mob. No. 9826357800

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Telibandha, Raipur, District Raipur Chhattisgarh

---- Non-applicant

For Applicant – Shri Yogeshwar Sharma, Advocate.
For Non-applicant/State – Shri N.K.Mehta, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

28-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.255/2017 on 26-06-2017 by P.S. Telibandha, Raipur, District Raipur, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915. After investigation police had filed the charge sheet, which is pending before the CJM Raipur as Criminal Case No.5469/17. Learned counsel for the applicant would further submit that the applicant is first offender, aged about 20 years; the applicant will not commit any offence in future and as per the allegation, from the applicant 6.300 bulk liter country liquor has been seized. He may be granted bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that as per the facts surfaced in the case diary, it appears that the applicant involved in the following matters prior to the incident:-

Sl.No.	Crime No.	Section
01.	25/12	379 of the IPC,
02.	209/13	457, 380 of the IPC,
03.	41/14	379 of the IPC.

Hence, looking to the entire criminal antecedent, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 2 months and 2 days till date, charge sheet has been filed, trial may take some time, the applicant is aged about 20 years, though aforementioned three matters have been registered against the applicant, but, there is no any material to demonstrate the value of the theft involved and outcome of the said matters as all the matters committed about 5, 4, 3 years ago, and upon consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. 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 the like sum to the satisfaction of the Chief Judicial Magistrate Raipur, C.G. for his appearance before the said Court as and when directed till trial.

6. 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; and (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.

7. It is further directed that the applicant shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Telibandha, Raipur, District Raipur C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till

disposal of the said criminal case against him. If the applicant failed to mark his appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicant was not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicant shall stand cancelled by the trial Court without further reference to the Bench.

8. 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.

9. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge