

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5038 of 2017

- Samal S/o Narad Ram Sahu, Aged About 30 Years, Occupation Agriculturist, R/o Village Botesur, Police Station and Tehsil Kawardha, District Kabirdham, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Excise Officer, Excise Circle, Sahaspur Lohara, District Kabirdham, Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.P. Sahu, Advocate.

For Non-applicant/State – Shri Sumit Jhanwar, 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 No23/2017 on 09-7-2017 by investigating agency, Excise Circle Sahaspur Lohara, District Kabirdham, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915. Charge sheet has not yet been filed, the applicant is remanded by CJM Kawardha, C.G. Learned counsel for the applicant would further submit that the applicant is first offender, he will not commit any offence in future and as per the allegation, from the applicant 30 bulk liter hand made country liquor and 300 kg. *mahua* 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 on the basis of quantity of liquor so seized and also the quantity of *mahua* so seized which is used for preparation of the hand made country liquor, though fairly conceded that the applicant had no criminal antecedent prior to the incident.

4. Perused the entire material.

5. As the applicant is in custody since 1 month and 19 days till date, charge sheet has not yet been filed, trial may take some time, the applicant is first offender, though the quantity of hand made country liquor so seized along with the quantity of *mahua* so seized is on the higher side, but as the applicant had no criminal past, and after consideration of the entire facts, I am inclined to grant one last 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.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate Kawardha, 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 till conclusion of the trial the applicant shall appear in person before the IO/In-charge, as the case may be, of Excise Circle Sahaspur Lohara, District Kabirdham, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till. 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