

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5099 of 2017**

- Sahash Ram Banjare S/o Fandiya Ram Banjare, Aged About 33 Years R/o Village Karhi, Police Station Birra, District Janjgir Champa Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Janjgir, District Janjgir Champa Chhattisgarh.

---- Respondent

 For Applicant : Shri Pushpendra Kumar Patel, Advocate
 For Respondent/State : Shri UKS Chandel, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

29.8.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.67/2017 registered in Police Station Birra, Distt. Janjgir-Champa (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Learned counsel for the applicant submits that the applicant has been arrested on 04.7.2017, after investigation, Police has filed charge sheet which is pending before Chief Judicial Magistrate, Janjgir Champa as Criminal Case No.577/17. As per the allegation, 20.00 bulk liters of country made liquor has been seized from the possession of the applicant. He is the first offender, he will not commit any offence in future. Learned counsel for the applicant would submit that following two matters

have been registered against the applicant prior to the present matter.

Sl. No.	Crime No.	Offence U/S.
01.	54/2014	34(1) a of the CG Excise Act, 1915.
02.	74/2016	34(1)a of the CG Excise Act, 1915

He submits that the applicant has been acquitted in both the above mentioned matters and both the matters were bailable one. Hence, he may be granted bail.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant on the basis of the quantity of liquor so seized and also on the basis of the aforementioned matters registered against the applicant.

5. Perused the entire material.

6. The applicant is in custody for one month and twenty five days, charge sheet has been filed, the trial may take some time for its conclusion, though few matters have been registered, which are bailable one, and also considering the other facts, I am inclined to grant one opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two separate solvent sureties of Rs. 25,000/- to the satisfaction of

Chief Judicial Magistrate, Janjgir-Champa for his appearance before the said Court as and when directed.

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; 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 the above , the Court below may proceed further under the provisions of law, under intimation.

10. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Birra, District Janjgir-Champa **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Janjgir-Champa as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the 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.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

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