

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5279 of 2017**

Kripa Ram Sarthi S/o Bahuran Sarthi Aged About 60 Years R/o
Moti Sagarpara Korba, Tahsil & District Korba Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police
Station Kotwali, Korba, District Korba Chhattisgarh.

---- Respondent

For applicant	Mr. Mirza Kaiser Baeg, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****31-8-2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 28-7-2017 in connection with Crime No. 491/2017 registered in PS Kotwali, Korba, Distt. Korba (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act, 1915.
3. Learned counsel for the applicant submits that charge sheet is not yet filed and the applicant is remanded by the CMJ Korba. This is his first bail application before this Court. He is first offender. As per allegation, 5.400 bulk litre country liquor/ foreign liquor has been seized from the conscious possession of the applicant. He will not commit any offence in future if granted bail. He may be granted bail as the trial may take time.
4. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicant on the basis of the quantity

of the liquor so seized from the applicant and as prior to the present matter, Crime No. 442/14 under Section 294, 323, 506, 34, Indian Penal Code, 1860 and Crime No. 637/14 under Section 34 sub-section (2) of the CG Excise Act, 1915 for keeping 5.400 bulk litre liquor illicitly have been registered against the applicant, hence instant MCRC may be dismissed.

5. Perused the matter.
6. As the applicant is in custody since 1 month and 3 days till date, charge sheet has not been filed, trial may take some time, though as aforementioned 2 matters have been registered against the applicant about 3 years ago, but there is no fact as to what was the outcome of said matters, and as submitted he will not commit any crime in future and considering entire facts of the case, I am inclined to grant last opportunity to the applicant to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety of the like sum to the satisfaction of the CJM Korba CG for his appearance before the said Court regularly as and when directed by the said Court.
7. 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 Kotwali, Korba Distt. Korba (CG) on every 1st and 3rd Monday at 11 am positively 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 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.

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. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge