

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5816 of 2017

- Om Prakash S/o Ganesh Ram, Aged About 26 Years, R/o Village Putpura, Police Station Janjgir, District Janjgir-Champa (Chhattisgarh)

---- Applicant

Versus

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

---- Non-applicant

For Applicant – Shri C.P.Lahrey, Advocate.

For Non-applicant/State – Shri U.K.S.Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-09-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime (Excise) No.138/2017 on 22-08-2017 by the investigating agency District Flying Squad, Excise Department Janjgir, District Janjgir-Champa, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). After investigation police had filed charge sheet, which is presently pending before the CJM Janjgir, Distt. Janjgir-Champa, C.G. as Criminal Case No.828/2017. Learned counsel for the applicant would further submit that the applicant will not commit any offence in future and as per the allegation, from the applicant 15 bulk liter hand made country liquor has been seized from the applicant. Learned counsel for the applicant would further submit that earlier against the applicant Crime No.45/17 under Section 34(1)(a) of the Act, 1915 has been registered, the charge sheet was filed before the CJM Janjgir as Criminal Case No.233/17 and the learned trial Judge vide judgment dated 28-06-2017 acquitted the applicant by affording benefit of doubt, with this, the applicant is not convicted by any of the criminal Court for any of substantive jail sentence. Hence, 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, though fairly submitted that though the investigating agency sought earlier criminal antecedent from P.S. Champa, but till date no any such material regarding criminal antecedent of the applicant is informed to the said agency.

4. Perused the entire material.

5. As the applicant is in custody since 1 month and 4 days till date, charge sheet has been filed, trial may take some time, as aforementioned in a matter of similar offence though bailable one the applicant is acquitted and no any criminal antecedent is shown by the investigating agency, after 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.40,000/- with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate Janjgir, District Janjgir-Champa, 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 of District Flying Squad/Excise Office, Janjgir, District Janjgir-Champa C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp. 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. Additional 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