

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5932 of 2017**

- Mohitram Yadav S/o Heerlal Yadav, Aged About 50 Years R/o Village Kudharitar (Kudaritar), Police Station Baradwar, District Janjgir- Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Baradwar, District Janjgir- Champa, Chhattisgarh.

---- Respondent

 For Applicants : Shri Dharmesh Srivastava, Advocate
 For Respondent/State : Shri Sumit Jhawar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

11.10.2017

Learned counsel for the applicant submitted a certified coy of the judgment dated 14.12.2016 passed by Judicial Magistrate First Class, Sakti, distt. Janjgir-Champa in Criminal Case No.540/2016. The said certified copy is taken on record and made part of the record.

2. Heard the matter finally.

3. 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.173/2017 registered in Police Station Baradwar, Distt. Janjgir-Champa (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Exicse Act, 1915.

4. Learned counsel for the applicant submits that the applicant has been arrested on 13.7.2017, after investigation, police has filed charge sheet which is presently pending before Chief Judicial Magistrate, Janjgir District Janjgir-Champa as Criminal Case

No.616/2017. As per the allegation, 08 bulk liters of handmade country liquor has been seized from the possession of the applicant. Learned counsel for the applicant submits that the applicant will not commit any offence in future. He further submits that earlier on 05.5.2016 one matter has been registered against the applicant under Section 34(1)(a) of the CG Excise Act and in that matter the applicant has been acquitted by the trial Court vide order dated 14.12.2016. As the trial may taken some time for its conclusion, he may be granted bail.

5. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant on the basis of the quantity of liquor so seized from the applicant and also earlier following matters registered against the applicant.

Sl. No.	Date of arrest	Offence U/S.
01.	05.5.2016	34(1)(a) of the CG Excise Act, 1915
02.	12.7.2017	34(1)(a) of the CG Excise Act, 1915

As the applicant is continuously involving in similar offence, his application for bail may be dismissed.

6. Perused the entire material.

7. The applicant is in custody for about three months, charge sheet has been filed, the trial may take some time for its conclusion, though against the applicant aforementioned two matters have been registered but in the matter dated 05.5.2016, the applicant was acquitted by the concerned criminal Court and another matter said to be pending is a bailable one and per the allegation he was in illegal possession of 3 bulk liters of liquor. After consideration of the entire

facts, I am inclined to grant one last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

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

9. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.30,000/- with one solvent surety of like sum amount to the satisfaction of trial Judge for his appearance before the said Court as and when directed.

10. 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.

11. 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 Baradwar, Distt. Janjgir-Champa (CG) **on First and Third Monday of every month at 11.00 am.**

It is further made clear that if the applicant fails to do so, 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.

12. 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