

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5967 of 2017

- Bhanu @ Suryanarayan S/o Late Shri Nageshwar Singh, Aged About 24 Years, R/o Firangipara, Kota, Police Station Kota, Civil & Revenue District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kota, District Bilaspur Chhattisgarh.

---- Non-applicant

For Applicant – Shri Dharmesh Srivastava, Advocate.

For Non-applicant/State – Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09-10-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.255/2017 on 09-09-2017 by P.S. Kota, District Bilaspur, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). Charge sheet has not been filed yet, the applicant is remanded by the JMFC Kota, Distt. Bilaspur, 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 5.400 bulk liter country liquor/foreign liquor has been seized along with sale proceeds Rs.340/-. 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, though fairly conceded that the applicant had no criminal antecedent.
4. Perused the entire material.
5. As the applicant is in custody since 1 month till date, charge sheet has not been filed, the applicant is aged about 24 years, he is first offender with no criminal antecedent and as submitted, he will not commit any offence in future, 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.25,000/- with one solvent surety of the like sum to the satisfaction of the Judicial Magistrate First Class Kota, District Bilaspur, 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. On perusal of the order passed by the Additional Sessions Judge Bilaspur, C.G. in Bail Petition No.1228/2017 dated 12-09-2017, it appears that in the entire order the concerned Additional Sessions Judge has not mentioned total quantity of liquor. It is appropriate to mention the total quantity of liquor so seized in terms of bulk liter/milliliter as per relevant provisions of the Act, 1915. The concerned Additional Sessions Judge is directed to not to commit this mistake in future and whenever he refers regarding any seizure, he has to mention the total quantity in terms of liter/milliliter as permitted in the law so as to appreciate the total quantity of liquor so seized.

8. Copy of this order be also sent to the concerned Additional Sessions Judge for guidance and compliance in future.

9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge