

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C No. 3441 of 2016**

1. Rupesh, Aged about 25 years, S/o Tiharu Pathare, resident of Dahrama Road, Baloda Bazar, District- Baloda Bazar, Bhatapara (C.G.)
2. Suresh, Aged about 28 years, S/o: Sahasram, resident of Dahrama Road, Baloda Bazar, District- Baloda Bazar, Bhatapara (C.G.)

**---- Applicants****Versus**

State Of Chhattisgarh Through: S.H.O.- Baloda Bazar-  
Bhatapara, District Baloda Bazar- Bhatapara (C.G.)

**---- Non-applicant**


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For Applicants: Mr. Hemant Gupta, Advocate.  
For Non-applicant/State: Mr. Vivek Sharma, Panel Lawyer.

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****09/06/2016**

Heard.

(1) This is the first application filed under Section 439 of the Code of Criminal Procedure for grant of bail to the applicants who are in jail since 09.05.2016 in connection with Crime No. 168/2016 registered at Police Station-City Kotwali, Baloda Bazar- Bhatapara, District Baloda Bazar- Bhatapara (C.G.) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

(2) Case of the prosecution, in brief, is that the applicants were found in possession of 9 bulk liters of illicit liquor and thereby committed the aforesaid offence.

(3) Learned counsel for the applicants submits that the applicants are innocent, they have been falsely implicated in the instant case and no liquor has been seized from their lawful possession. He further submit that the applicants are in judicial custody since 9.5.2016 and this is the first time where the applicants have been implicated under the Excise Act and therefore taking into consideration all these facts they may be enlarged on bail.

(4) Opposing the bail application, learned counsel for the State submits that the applicants were found to be in unlawful possession of 9 bulk liters of illicit liquor and therefore they are not entitled to be released on bail.

(5) Without commenting on merits, considering the totality of the facts & circumstances of the case and also considering the fact that the applicants are languishing in jail since 9.5.2016 and considering the quantity of liquor, this Court is of the opinion that the present is a fit case where the applicants can be enlarged on bail.

(6) Accordingly, the application for grant of bail is allowed. It is directed that the applicants shall be released on bail on their

furnishing a personal bond for a sum of Rs.20,000/- each with one surety each of the like sum to the satisfaction of the concerned Trial Court for their appearance as and when directed.

Certified copy, as per rules.

Sd/-  
**(P. Sam Koshy)**  
**V. Judge**

D/-