

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1976 of 2017**

1. Lalu Prasad Joshi Alias Chhotu S/o Aanadram Joshi, Aged About 22 Years Occupation Labour, R/o Village Bamhani Thana, Tahsil And District Mahasamund Chhattisgarh
2. Manoj Nirala, S/o Ghasiya Nirala, Aged About 23 Years Occupation Labour R/o Village Bamhani Thana, Tahsil And District Mahasamund Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Tumgaon, District Mahasamund Chhattisgarh

---- Respondent

For Applicants	: Shri Vikas Pradhan, Advocate
For Respondent/State	: Shri Sumit Jhawar, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****24.4.2017**

1. Heard the matter finally.
2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with crime No.36/2017 registered at Police Station Tumgaon, Distt. Mahasamund, for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
3. Case of the prosecution, in brief, is that 53 liters 640 ml foreign liquor was seized by the police from the joint possession of the present applicants.

4. Learned counsel for the applicants submits that charge sheet is yet not filed. The applicants are in detention since 8.3.2017 and from each of the applicants 26.820 liters of liquor has been seized. The applicants are remanded by the C.J.M. Mahasamund. He further submits that applicants have no criminal background, therefore, they may be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application. He submits that earlier one matter under Section 34 (2) of the Excise Act, 1915 has been registered as Cr. No. 113/2016 against applicant no.1 and against applicant no. 2, Cr. No.27/2017 under Section 34 (1) (a) of the Excise Act, 1915 has been registered, goes to show earlier antecedents of the applicants.

6. I have heard the counsel appearing for the parties and perused the material.

7. Without commenting on merits, considering the totality of the facts and circumstances of the case, quantity of liquor and also considering the fact that the applicants are in detention since 1 ½ months though one matter is pending against each of the applicants, I am of the opinion that present is the fit case, in which, the applicants should be enlarged on bail.

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

9. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.50,000/-

with one surety each in the like sum to the satisfaction of the C.J.M. Mahasamund for their appearance as and when directed.

10. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain 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.

Certified copy as per rules.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**