

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2264 of 2017**

- Awadh Ray S/o Late Shiv Ray, Aged About 55 Years R/o Village Vishrampuri, Thana Vishrampuri, District Kondagaon, Bastar, Chhattisgarh. At Present R/o Village Ghatkchhar, Police Station & Tahsil Saraipali, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

AND**Misc. Criminal Case No.2228 of 2017**

- Suman Alias Suna Dadsena S/o Laxmilal Aged About 24 Years R/o Village Kharora, Thana Basna, Tahsil Basna, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicants	: Shri Vikas Pradhan, Advocate
For Respondent/State	: Shri Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****26.4.2017**

Both the above matters arise out of the same incident and crime number, hence, both the applications are heard and disposed of by a common order.

2. These are the two applications 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.66/2017 registered in Police Station Saraipali, Distt. Mahasamund for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Learned counsel for the applicants submits that the applicants have been arrested on 27.02.2017, charge sheet is yet to be filed, both the applicants are in custody by the order of Chief Judicial Magistrate, Mahasamund, they are the first offenders, and as per the allegation, from the joint possession of both the applicants, 90 liters of country made liquor has been seized along with vehicle Bolero CG 04 HD 3487 on 27.02.2017. He further submits that even otherwise, if the charge sheet is not filed till 28.4.2017, the applicants may get the opportunity of bail under the provisions of Section 167(2) proviso a(ii) of the Cr.P.C.

4. Learned counsel for the State opposes the bail application and would fairly submits that there is no criminal antecedent against both the applicants.

5. Perused the entire material.

6. On due consideration of the fact that both the applicants are in jail for about two months, charge sheet is yet to be filed, there is no criminal antecedent against the applicants, I am inclined to grant opportunity to the applicants, so that they will not commit any offence in future.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with one surety in the like sum to the satisfaction of Chief Judicial Magistrate, Mahasamund for their appearance before the said Court as and when directed.

9. 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.

10. Copy of this order be kept in the record of M.Cr.C. No.2228/2017.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE