

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2395 of 2017**

1. Ramesh Nishad S/o Kamal Nishad Aged About 32 Years
2. Gaukaran Dhalen S/o Kailash Dhalen Aged About 24 Years

Both R/o Village Jaisakarra Police Station & Tahsil Charama District North
Bastar Kanker, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through The Police Station Charama, District
Kanker, Chhattisgarh.

---- Respondent

For applicants	Mr. P.K. Tulsiyan, Adv.
For Respondent/State	Mr. Ashok Swarnkar, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

02/05/2017

1. Heard finally.
2. The applicants have preferred this application for grant of bail as they are arrested on 28-3-2017 in connection with Crime No. 79/2017 registered in PS Charama Distt. North Bastar, Kanker (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act.
3. Learned counsel for the applicants submits that after investigation, police has filed charge sheet which is pending before CJM, North Bastar, Kanker as Criminal Case No. 374/2017. They are first offender. They are in jail since 28-3-2017. They may be granted bail as the trial may take time. As per allegation, Applicant No. 1 Ramesh Nishad was driving motorcycle bearing registration No. CG 05 W 0988 and applicant No. 2 Gaukaran Dhalen was sitting behind along with 5.940 bulk litre foreign liquor. Police had seized the said motorcycle and the liquor from applicant No. 1. It is submitted that if bail is granted, they will not commit any offence, therefore, the applicants may be enlarged on bail.
4. Per contra, learned State counsel opposed the bail application and submits that Crime No. 06/2005 under Section 451, 342 and 354 of the IPC has been registered against the applicant No. 1 which goes to show earlier criminal antecedent of the applicant. Hence bail

application may be rejected.

5. Perused the material available.
6. On due consideration, looking to the fact that earlier crime of the applicant belong to about 12 years ago against A-1, and as no similar offence has been registered against the applicants and considering that the police has seized the motorcycle and also the quantity of liquor seized, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety of the like sum to the satisfaction of the CJM, North Bastar, Kanker for their appearance before the said Court till disposal of the trial regularly as and when directed by the said Court.
7. 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; (iv) the trial Court finds that the applicants remain 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.
8. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge