

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No.1599 of 2017**

- Ajaj Khan @ Chhota Babu S/o Rafique Khan, Aged About 25 Years R/o Behind Masjid, Kelabadi, Durg, District Durg, Chhattisgarh.

---- Applicant

**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Chowki Padmanabhpur, Police Station Durg, District Durg, Chhattisgarh.

---- Respondent

**AND****MCRC No. 2465 of 2017**

- Bashimuddin @ Simmi @ Malik S/o Mukimuddin Malik, Aged About 28 Years R/o Taj Nagar Teka, Char Khambha Chowk Near Kabaddi Ground, Police Station Panch Pawli Nagpur Maharastra

---- Applicant

**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Durg, District Durg Chhattisgarh

---- Respondent

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| For Applicants       | : Shri Jitendra Gupta, Advocate   |
| For Respondent/State | : Shri Anant Bajpai, Panel Lawyer |

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**Hon'ble Shri Justice Chandra Bhushan Bajpai****Order On Board****27.6.2017**

As both the above mentioned applications arise out of same crime number and incident, both the applications are being disposed of by a common order.

2. Heard the matter finally.

3. These are the 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.737/2016 registered in Outpost Padmanabhpur, Police Station Durg, Distt. Durg (CG) for the offence punishable under Sections 21(b), 27A & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1958 (for short 'the NDPS Act').

4. Learned counsel for the applicants submits that applicant Ajaj Khan @ Chhota Babu has been arrested on 22.10.2016 and applicant Bashimuddin @ Simmi @ Malik has been arrested on 23.10.2017. After investigation, police has filed charge sheet which is pending before Special Judge under the NDPS Act. Learned counsel for the applicants is not in a position to state the Special criminal case number registered against the applicants. He further submits that as per the entries shown in the malkhana of the Police Station, small quantity of diacetylmorphine has been deposited which goes to show that the claim of investigating agency that both the applicants have been found in illegal possession of diacetylmorphine i.e. heroin higher than the small quantity is not correct, both the applicants have been falsely implicated in the crime in question, hence, they may be granted bail.

5. Per contra, learned counsel for the respondent/State opposes the bail applications and would submit that from both the applicants, the police has seized heroine i.e. diacetylmorphine higher than the small quantity in total and also the chemical analysis report received from the FSL is positive, hence the applications may be dismissed.

6. Perused the material.
7. On due consideration, looking to the seizure memo regarding both the applicants and other facts, it is not the case where the substance below the small quantity has been seized and recovered from the applicants. Upon consideration of the entire facts, I am not inclined to grant bail to both the applicants.
8. Accordingly, bail applications filed under Section 439 of the Cr.P.C. are hereby dismissed.

Sd/-

**(Chandra Bhushan Bajpai)**

**JUDGE**