

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2443 of 2017

1. Son Singh S/o Shri Sukhiram Sidar, Aged About 44 Years, By Caste Gond, R/o Village- Bichhiya, Thana & Tahsil - Saraypali, Civil & Revenue District Mahasamund, Chhattisgarh.
2. Devram S/o Shri Baliram, Aged About 36 Years, By Caste- Gada, R/o Village- Bijrabhatha, Thana & Tahsil- Saraypali, Civil & Revenue District Mahasamund, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh Through The Station House Officer Police Station- Basna, Outpost- Bhawarpur, District- Mahasamund, Chhattisgarh.

---- Non-applicant

For Applicants – Shri Sumit Shrivastava, Advocate.

For Non-applicant/State – Shri Neeraj Sharma, Deputy Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

03-05-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the applicants held arrested in connection with Crime No.131/2017 on 31-3-2017 by Outpost Bhawarpur, P.S. Basna, Distt. Mahasamund, C.G. for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). Charge sheet has not yet been filed. The applicants are remanded by the CJM Mahasamund, C.G. Both the applicants are first offender. This is the first bail application. As per the allegation, from joint possession of both the applicants 43.200 bulk liter foreign liquor has been seized along with a motorcycle without bearing any registration number. The trial may take some time. The applicants will not commit any offence in future. They may be granted bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants on the basis of the quantity of liquor so seized and they were taking a motorcycle which was not having any registration number and submitted that it goes to show the conduct of the

applicants, though police had not collected any material regarding earlier criminal antecedent of the applicants. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. Looking to the facts that the applicants are in jail for one month and 4 days till date, charge sheet has not yet been filed, motorcycle and the liquor is seized from the joint possession of the the applicants and as they are the first offender and as submitted they will not commit any offence in future, I am inclined to grant one opportunity to the applicants so that now they shall not involve themselves in any similar or other offence and shall live in society peacefully without committing any crime. Consequently, the instant MCRC is hereby allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.40,000/- with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate Mahasamund, C.G. for their appearance before the said trial Court as and when directed till trial.

6. 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 above, the Court below may proceed further under the provisions of law under intimation.

7. It is further directed that if during investigation police registers any other offence in the present matter in addition to the offence registered, then the bail granted to both the applicants shall stand cancelled without further reference to

the Bench by the trial Court and the trial Court will take the applicants in custody along with other procedural proceedings.

8. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE