

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2713 of 2017**

1. Shyamacharan Sahu S/o Late Johan Ram Sahu, Aged About 56 Years R/o Village Bhothidih, Police Station Magarlod, District Dhamtari Chhattisgarh
2. Smt. Manbai Sahu, W/o Shyamacharan Sahu, Aged About 55 Years R/o Village Bhothidih, Police Station Magarlod, District Dhamtari Chhattisgarh
3. Ishwar Lal Dhruv, S/o Late Jageshwar Dhruv, Aged About 37 Years R/o Village Bhothidih, Police Station Magarlod, District Dhamtari Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Magarlod District Dhamtari Chhattisgarh

---- Respondent

For Applicants	: Shri Anil Gulati, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12.5.2017**

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.46/2017 registered in Police Station Magarlod, Distt. Dhamtari for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicants submits that the applicants have been arrested on 20.3.2017, after investigation, charge sheet has been filed against the applicants which is

pending before Chief Judicial Magistrate, Dhamtari as Criminal Case No.365/17. As per the allegation, from joint possession of applicants 1 & 3, 17.100 bulk liters of country made liquor has been seized and from the possession of applicant No.2, 28.800 bulk liters of country made liquor has been seized. The applicants are the first offenders, they will not commit any offence in future, the trial may take sometime for its conclusion, hence they may be granted bail.

4. Per contra, learned counsel for the State opposes the bail application and would submit that appellants 1 & 3 were running a dhaba and from their joint possession aforementioned quantity of liquor has been seized and applicant No.2 has stored 28.800 bulk liters liquor inside her house which too has been recovered. The applicants were in illegal sale of liquor but they were not earlier noticed regarding any earlier similar or other offence. Looking to their conduct, their bail application may be dismissed.

5. Perused the entire material.

6. On due consideration of the fact that the applicants are in jail for one month twenty two days, there is no criminal antecedent reported against any of the applicants, looking to the entire facts and circumstances and the manner in which they stocked the liquor, prima facie shows the conduct of the applicants and also the liquor so seized is on higher side, but considering the fact that the trial may take sometime for its conclusion, I am inclined to

grant one last opportunity to the applicants, so that they shall not commit any similar or other offence in future.

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

8. 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 solvent surety of like sum to the satisfaction of Chief Judicial Magistrate, Dhamtari, 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.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE