

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2852 of 2017**

1. Bheem Kumar Singh S/o Late Kuldeep Singh, Aged About 24 Years R/o Kosanala Supela, Police Station Supela, Bhilai Tehsil And District Durg Chhattisgarh
2. Vikas @ Vikki Nirmalkar, S/o Johatram Nirmalkar, Aged About 28 Years R/o Krishna Nagar Near Mahatma Gandhi Nagar, Raipur, District Raipur Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through : S. H. O., Police Station Supela, District Durg Chhattisgarh

---- Respondent

For Applicants	: Shri SK Agrawal, Advocate
For Respondent/State	: Shri Vinod Tekam, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17.5.2017**

1. 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.265/2017, registered at Police Station Supela, Distt. Durg (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
3. Learned counsel for the applicants submits that the applicants are arrested on 31.03.2017. He further submits that charge sheet has not been filed and both the applicants are remanded by CJM, Durg (CG). Both the applicants are first

offender. As per allegations both the applicants were in possession of liquor and they were independently standing near road looking for some conveyance. During investigation Police had seized from applicant no.1, 16.320 bulk liters beer and 750 ml foreign liquor and from applicant no. 2, 12.780 bulk liters of beer and 750 ml foreign liquor. Trial may take some time and they have no criminal background, therefore, they may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application. However, he fairly conceded that there is no earlier criminal antecedent of the applicants.

5. I have heard the counsel appearing for the parties.

6. Without commenting on merits, considering the totality of the facts and circumstances of the case, as both the applicants are in jail since 1 month and 18 days, charge sheet has not been filed; trial may take some time, both the applicants are first offender and though the quantity of beer so seized is on the higher side, but as there is no earlier criminal antecedent of the applicants, I am of the opinion that present is the fit case, in which, the applicants should be enlarged on regular bail.

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.30,000/-

with one surety each in the like sum to the satisfaction of the C.J.M. Durg for their appearance as and when directed till trial.

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**