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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.2746 of 2017

1. Birendra Seth S/o Shankar Seth Aged About 30 Years R/o Village Bamdadih Thana- Pithora, Tahsil Pithora District- Mahasamund, Chhattisgarh.
2. Panchanan Seth S/o Tinchu Seth, Aged About 35 Years R/o Village Jagdishpur, Road Basna, District- Mahasamund, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through: Station House Officer Police Station- Basna, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Shri Vikash Pradhan, Advocate
For Respondent/State : Shri UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

15.5.2017

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.121/2017 registered in Police Station Basna, Distt. Mahasamund for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Learned counsel for the applicants submits that the applicants have been arrested on 30.3.2017, charge sheet is not yet filed, both the applicants have been remanded by Chief Judicial Magistrate, Mahasamund. The applicants are the first offenders, as per the allegation, both the applicants were transporting 18 bulk liters of

country made liquor in a motor cycle bearing registration No. CG 04 DA 6441 and the police has seized the said motor cycle and liquor from the joint possession of both the applicants. The applicants will not commit any offence in future, they may be granted bail.

4. Per contra, learned counsel for the State opposes the bail application and would fairly submit that the police has not noticed any criminal antecedent against the present applicants prior to the incident.

5. Perused the entire material.

6. On due consideration of the fact that the applicants are in jail for 1 ½ month, they are the first offender, motor cycle and liquor has been seized from the joint possession of both the applicants, as submitted, they will not commit any offence in future, I am inclined to grant one 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 furnishing a personal bond in the sum of Rs.40,000/- each with one solvent surety of like sum to the satisfaction of Chief Judicial Magistrate, Mahasamund 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 Cort 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

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