

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2896 of 2017**

1. Shahbaj Khan S/o Mohd. Shahjada Khan, Aged About 26 Years R/o Somwari Bazar Nawapara(Rajim), Post Office & Police Station Gobvra- Nawapara, District- Raipur, Chhattisgarh.
2. Haider Ali, S/o Abdul Razzak Aged About 25 Years R/o Brahaman Para, Nawapara (Rajim), Post Office & Police Station Gobra- Nawapara, District- Raipur, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through : Station House Officer, Police Station Panduka, District- Gariyaband, Chhattisgarh.

---- Respondent

For Applicant	: Shri Shivendu Pandya, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****18.5.2017**

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.05/2017 registered in Police Station Panduka, Distt. Gariyaband 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 11.01.2017, after investigation, Police has filed charge sheet which is pending before Chief Judicial Magistrate, Gariyaband as Criminal Case No.225/2017. The applicants are the first offenders, as per the allegation, the police has seized 10 liters

hand made country liquor from each applicants. They will not commit any offence in future, as the trial may take sometime for its conclusion, they may be granted bail.

4. Per contra, learned counsel for the State opposes arguments advanced on behalf of the applicants on the basis of quantity of liquor so seized and would fairly submit that no criminal antecedent is reported against the applicants prior to the incident.

5. Perused the entire material.

6. On due consideration of the fact that the applicants are in jail for four months and seven days , the trial may take sometime for its conclusion, though the liquor so seized from each applicants are on higher side, but the considering the fact that there is no criminal past in respect to the applicants, 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.30,000/- each with one solvent surety of like sum to the satisfaction of Chief Judicial Magistrate, Gariyaband 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