

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2872 of 2017**

1. Mohit Nishad S/o Shri Khorbahara, Aged About 38 Years R/o Village Anjora, Post Nagpura, Tahsil And District Durg Chhattisgarh
2. Harish Chandra Yadav, S/o Shri Jagdish Yadav, Aged About 44 Years R/o Village Anjora, Post Nagpura, Tahsil And District Durg Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Jevara, Tahsil And District Durg Chhattisgarh

---- Respondent

For Applicant	: Dr. Sourabh Pandey, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

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

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.172/2017 registered in Police Station Jevara, Distt. Durg 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 31.3.2017, charge sheet is not yet filed and the applicants have been remanded by the Judicial Magistrate First Class, Durg. The applicants are the first offenders, as per the allegation, both the applicants were carrying 18.00 bulk liters of

country made liquor in a motor cycle bearing registration No.CG 07 AT 5375. The Police has seized motor cycle from applicant No.2 and the liquor from applicant No.1. 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 one month and eighteen days, charge sheet is not yet filed, the trial may take sometime for its conclusion, though the liquor so seized in the matter is on higher side, but the considering the facts 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 Judicial Magistrate First Class, Durg 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