

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4122 of 2017**

1. Mukesh Tiwari S/o Shri Keshav Tiwari, Aged About 39 Years R/o Village Malighoti, Balod, Tahsil & District Balod, Chhattisgarh.
2. Mahesh Yadav, S/o Shri Bhagirathi Yadav, Aged About 23 Years R/o Dabrapara, Near Shiv Temple, Chunabhatthi, Police Station Ganj, Raipur, District Raipur, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Mandir Hasaud, District Raipur, Chhattisgarh.

---- Respondent

For applicant	Mr. Manoj Kumar Dubey, Adv.
For Respondent/State	Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****25/7/2017**

1. Heard finally.
2. The applicants have preferred this application for grant of bail as they are arrested on 28-5-2017 in connection with Crime No. 70/2017 registered in PS Mandir Hasaud, Distt. Raipur (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise Act., 1915.
3. Learned counsel for the applicants submits that after investigation charge sheet has been filed and the matter is pending before the JMFC Raipur as Cri. Case No. 5450/2017. As per allegation, incident is of 4-3-2017 and when the vehicle bearing registration No. CG 06 9051 was spotted by the police, both the applicants ran away from the spot and the police seized the vehicle and 77.760 bulk litre foreign liquor left inside the said car from the spot. Thereafter both the applicants were arrested. They are the first offender. They will not commit any offence in future if granted bail. They may be granted bail as the trial may take time. They are not the registered owner of the

said vehicle. They are falsely implicated.

4. Per contra, learned State counsel opposes the bail application on the basis of huge quantity of foreign liquor so seized in the matter. Both the applicants were present and then fled away from the spot. However, he fairly concedes that police has not reported any criminal antecedent of the applicants in the case diary.
5. Perused the matter.
6. On due consideration, as the applicants are in jail since 1 month and 28 days till date, the vehicle in question was not registered in the name of the applicants, the applicants are not caught on the spot along with liquor and they were arrested later, they are first offender, though quantity of liquor so seized is on higher side but considering the entire facts, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of their furnishing a personal bond in the sum of Rs. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the JMFC, Raipur CG for their appearance before the said Court regularly as and when directed by the said Court.
7. It is made clear that this order granting bail to the applicantd 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: (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. The applicants are further directed to appear before the concerned

SHO/IO/in-charge of the Police Station Mandir Hasaud, Distt. Raipur on every 1st and 3rd Monday at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remains absent without any cogent and proper reason as directed, the bail granted to applicants shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.
9. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge