

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No. 4359 of 2017

- Premu Nishad S/o Khilawan Nishad Aged About 26 Years R/o Village Karhi Bazar, Post Karhi Bazar, Thana Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O. P.S. Pachpedi, District Bilaspur Chhattisgarh

---- Respondent

AND

Misc. Criminal Case No. 4428 of 2017

- Nanki Kumar Sen S/o Shri Tiharu Ram, Aged About 24 Years R/o Village Karhibazar Police Station Balauda Bazar, District Balauda Bazar Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through S. H. O. Police Station Pachpedi District Bilaspur Chhattisgarh

---- Respondent

For Applicant in MCRC No.4359/17	: Shri Dhirendra Pandey, Advocate
For Applicant in MCRC No.4428/17	: Smt. Madhunisha Singh Thakur, Advocate.
For Non-applicant/State	: Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

08.08.2017

As both the cases arise out of the same crime number and incident, both are being disposed of by a common order.

2. Learned counsel for the applicant Premu Nishad submits that he will file his vakalatnama during the course of the day.

3. It is submitted on behalf of the respected counsel for the applicants that both the applicants were arrested in connection with Crime No.45/2017, under Section 34(2) of Chhattisgarh Excise Act 1915, Police Station Pachpedi, Distt. Bilaspur (C.G.). Police had also arrested one more co-accused Ajay Soni, who had not filed any petition for bail. Applicant Premu Nishad was arrested on 08/06/2017 and applicant Nanki Kumar Sen was arrested on 09/06/2017, both are the first offenders. Learned Counsel are not aware whether the charge-sheet has been filed against the applicants or not. But they are remanded by Judicial Magistrate First Class, Bilaspur. As per the allegation, all the three co-accused were in illegal possession of 108 bulk litre country made liquor and when the police party reached, co-accused Nanki Kumar Sen and Ajay Soni fled from the spot, with this, the police has seized the liquor from applicant Premu Nishad. Both the applicants are the first offender. They will not commit any offence in future, they may be granted bail.

4. Per Contra, learned Counsel for the respondent/State opposed the arguments advanced on behalf of the applicants and would submit that police had seized huge quantity of liquor from the constructive and conscious possession of all three accused persons, though physically co-accused Nanki Kumar Sen And Ajay Soni had run away from the spot but they were also in possession of the said liquor, hence, both the instant MCRCs may be dismissed. But he fairly considered that the police had not reported any criminal antecedent of both the applicants.

5. Perused the entire material.

6. As both the applicants are in custody for about two months, they are the first offender, no criminal antecedent is reported for any of the applicants, though the quantity of liquor so seized is on the higher side, but considering the entire facts and material the applicants are the first offender, trial may take some time for its conclusion, I am inclined to grant last opportunity to the applicants so that they shall not commit any offence in future and shall remain peacefully in the society.

7. Consequently, bail application filed under Section 439 of the Cr.P.C, is hereby allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- each with two separate solvent sureties of Rs.50,000/- to the satisfaction of JMFC/ Trial Court, as the case may be 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.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Pachpedi, Distt. Bilaspur **on First and Third Monday of every month at 11:00 am.** It is further made clear that if the applicants without any cogent and proper reason do not appear before the Police of Police Station Pachpedi, Distt. Bilaspur as directed, the concerned police may inform the trial Court for the act and if their non-appearance found to be without any proper and cogent reason, the instant order granting bail to the applicants shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Register (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

12. A copy of this order be kept in the record of MCRC No.4428/2017.

Certified copy as per rules.

**Sd/-
(Chandra Bhushan Bajpai)**

Judge