

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4789 of 2017**

1. Mohammed Naushad, S/o Shri Tayyum Khan, Aged About 21 Years, R/o Khairwarpara, Khutaghat, Ratanpur, Police Station Ratanpur Post Office Garhwat, Tehsil Kota, District Bilaspur, Chhattisgarh.
2. Mohammad Sajeem, S/o Shri Mohammed Hakim Khan, Aged About 21 Years, R/o Khutaghat Ratanpur, Police Station Ratanpur, Post Office Garhwat, Tehsil Kota, District Bilaspur, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Station Dipka, District-Korba, Chhattisgarh.

---- Respondent

For Applicant	: Shri Saleem Kazi, Advocate.
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****04.09.2017**

Peruse the office note dated 30/08/2017. As per the office note the co-accused Lal Singh and Haripujan have not preferred bail application in connection with present matter.

Heard the matter finally.

2. The applicants have preferred this application for grant of bail as he was arrested on 17/04/2017, in connection with Crime No. 09/2017, registered in Police Station Dipka, Distt. Korba (C.G.) for offence punishable under Section 447 & 379 read with Section 34 of the IPC along with Section 3 & 7 of the Essential Commodities Act,

1955.

3. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is pending before the Judicial Magistrate First Class Katghora (C.G.) as Criminal Case No.324/17. Learned counsel for the applicants would further submit that the applicants are the first offenders. They will not commit any offence in future and as per allegation, on 17/01/2017 all the 4 accused persons stolen 420 litre diesel and kept the said in a Bolero Camper in Jerry Cans when the security official of SECL Dipka, C.G. reached to the spot, they fled away from the spot leaving Bolero Camper and diesel kept in the Jerry Cans. The said diesel and the Bolero Camper seized thereafter during investigation. Consequently, the applicants are other co-accused were arrested and sent to custody after a disclosure statement recorded by police Lal Sing and Haripujan. The applicants will not commit any offence in future, as the trial may take some time for its conclusion, they may be enlarged on bail till trial.

4. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicant would submit that looking to the act of the applicants, quantity of diesel so seized in the matter valued of Rs.23,000/- from the applicants. The MCRC filed by the applicants may be dismissed, though fairly considered that as per material in the case diary, no criminal antecedent of the applicants are shown.

5. Perused the matter.

6. As the applicants are in custody for 4 month 21 days till date, charge-sheet has been filed, trial may take some time, and applicant

the applicants are the first offender and as per submission applicants are aged about 21 years though the Additional Session Judge Katghora in order dated 29/06/2017, stated that there are many matter pending of diesel theft by the applicants and they are habituated offenders. But there is no information submitted on behalf of the prosecution regarding any criminal antecedent, with this for the moment it appears that applicants are the first offender and as submitted they will not commit any offence in future, after consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that they shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, instant MCRC is allowed.

8. The applicants are directed to be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties of each of Rs.25,000/- to the satisfaction of the Judicial Magistrate First Class Katghora (C.G.) for his appearance before the said Court regularly as and when directed by the said Court. for their appearance before the said Court regularly as and when directed by the said Court.

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 does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; (iv) the trial Court

finds that the applicants remains absent without any sufficient and cogent reason.

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 Dipka, Distt. Korba **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 does not appear before the Police of Police Station Dipka, Distt. Korba 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. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge