

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4973 of 2017**

1. Suresh Diwan, S/o Goverdhan Diwan, Aged About 26 Years
Occupation Framing, R/o Village Chhuiha, Police Station
Tendukona, Tahsil Bagbahara, District Mahasamund
(Chhattisgarh).
2. Visarjan Diwan, Sonsay Diwan, Aged About 40 Years,
Occupation Framing, R/o Village Chhuiha, Police Station
Tendukona, Tahsil Bagbahara, District Mahasamund
(Chhattisgarh).

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police
Station Tendukona, District Mahasamund (Chhattisgarh).

---- Respondent

For Applicant	: Shri Vikash Pradhan, Advocate.
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.08.2017**

Heard the matter finally.

2. The applicants have preferred this application for grant of bail as they were arrested on 10/07/2017, in connection with Crime No. 54/2017, registered in Police Station Tendukona, Distt. Mahasamund (C.G.) for offence punishable under Section 34(2) of the Chhattisgarh Excise Act 1915.

3. Learned counsel for the applicants submits that charge-sheet is not yet filed and the applicants have been remanded by Chief

Judicial Magistrate, Mahasamund (C.G.). Learned counsel for the applicants would further submit that the applicants are the first offenders and no criminal antecedent has been reported against them. As per the allegation, from the joint possession of both the applicants 14 bulk litre of hand-made country liquor has been seized along with motor-cycle bearing Registration No. CG 06 GD 7802. 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 applicants on the basis of quantity of liquor so seized from the applicants but fairly submits that they had no criminal antecedent.

5. Perused the matter.

6. As the applicants are the first offenders, they are in jail for 1 month 12 days till date, charge-sheet is not yet, trial may take some time, and there is no criminal antecedent reported against the applicants, I am inclined to grant one opportunity to the applicants so that they will 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.40,000/- each with one solvent surety of like some amount to the satisfaction of the Chief Judicial Magistrate, Mahasamund, (C.G.), 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. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Tendukona, Distt. Mahasamund, (C.G.) **on every 1st and 3rd Monday at 11:00 am** till trial. If the applicants fails to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remains absent without any cogent reason 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.

11. Register (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 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