

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 5047 of 2017**

1. Om Prakash Sahu S/o Noman Das Sahu, Aged About 26 Years, Caste Teli, R/o Village Khursipar, Thana Dongargaon, Civil and Revenue District Rajnandgaon, Chhattisgarh.
2. Mannas Mohammad @ Golu Khan S/o Late Jaan Mohammad Aged About 43 Years, Caste Muslim, R/o Village Kokpur, Thana Dongargaon, Civil and Revenue District Rajnandgaon, Chhattisgarh.
3. Ramesh Kumar Banjare S/o Budhelal Banajare, Aged About 28 Years, Caste Mochi, R/o Village Kokpur, Thana Dongargaon, Civil and Revenue District Rajnandgaon, Chhattisgarh.

**---- Applicants**

**Versus**

- State Of Chhattisgarh Through The Police Station Ambagarh Chowki, Civil And Revenue District Rajnandgaon, Chhattisgarh.

**---- Non-applicant**

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For Applicants – Shri Punit Ruparel, Advocate.

For Non-applicant/State – Shri Wasim Miyan, Panel Lawyer.

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**Hon'ble Shri Justice Chandra Bhushan Bajpai**

**Order on Board**

**30-08-2017**

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the applicants held arrested in connection with Crime No.143/2017 by P.S. Ambagarh Chowki, Distt. Rajnandgaon, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915 (in short 'the Act, 1915'). Applicant No.1–Om Prakash Sahu has been arrested on 15-07-2017. Applicant No.2–Mannas Mohannad @ Golu Khan and Applicant No.3– Ramesh Kumar Banjare surrendered before the remand Court on 18-07-2017. Charge sheet has not yet been filed, the applicants are remanded by the CJM Rajnandgaon. Learned counsel for the applicants would further submit that the applicants will not commit any offence in future. There is no any criminal antecedent of Applicant No.1 and Applicant No.2. Against Applicant No.3 a matter has been registered as Crime No.42/16

under Section 34(2) of the Act, 1915 alleging that Applicant No.3 was in illegal possession of 16.920 bulk liter liquor, the Applicant No.3 is not convicted in the said matter. As per the allegation, the applicants were carrying 45 bulk liter country liquor in a Scorpio bearing registration No. CG 08 Y 4207, when the concerned police stopped the vehicle Applicant No.2 and Applicant No.3 absconded and the police seized 45 bulk liter liquor and the said Scorpio from the Applicant No.1. Thereafter, Applicant No.2 and Applicant No.3 surrendered before the concerned remand Court. They may be granted bail as the trial may take some time.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants on the basis of huge quantity of liquor so seized in the matter and also Applicant No.2 and Applicant No.3 were absconded from the spot, though fairly conceded that except the aforementioned matter registered against Applicant No.3, there is no any criminal antecedent of Applicant No.1 and Applicant No.2.

4. Perused the entire material.

5. As Applicant No.1 is in custody since 1 month and 15 days till date and Applicant No.2 and Applicant No.3 are in custody since 1 months and 12 days, charge sheet has not been filed yet, except Applicant No.3 there is no any criminal past of Applicant No.1 and Applicant No.2, Applicant No.3 is also not convicted by any criminal Court, though quantity of liquor so seized from the Scorpio being transported by all the three applicants is higher side, but after consideration of the entire facts, I am inclined to grant one opportunity to the applicants so that they shall not involve themselves in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.25,000/- each to the satisfaction of the Chief Judicial Magistrate

Rajnandgaon, C.G. for their appearance before the said Court as and when directed till trial.

6. 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 above, the Court below may proceed further under the provisions of law under intimation.

7. It is further directed that till conclusion of the trial the applicants shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Ambagarh Chowki, District Rajnandgaon, C.G. in 1<sup>st</sup> and 3<sup>rd</sup> Monday of every month at 11.00 a.m. sharp. If the applicants failed to mark their appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicants were not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicants shall stand cancelled by the trial Court without further reference to the Bench.

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. Certified copy as per rules.

Sd/-  
(Chandra Bhushan Bajpai)  
Judge