

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5246 of 2017

- Byas Bariha S/o Bhagirathi Bariha, Aged About 30 Years, Caste Binjhar R/o Village Murmuri, Police Station and Tahsil Saraipali, District Mahasamund, Chhattisgarh.
- Satyawan S/o Rasiko Bariha, Aged About 20 Years, Caste Binjhar R/o Village Murmuri, Police Station and Tahsil Saraipali, District Mahasamund, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through: Station House Officer, Police Of Police Station Saraipali, District- Mahasamund, Chhattisgarh.

---- Non-applicant

For Applicants – Shri Anil Gulati, Advocate.

For Non-applicant/State – Shri Sumit Jhanwar, Panel Lawyer.

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.224/2017 on 14-07-2017 by P.S. Saraipali, District Mahasamund, Chhattisgarh for the offence under Section 34(2) of the C.G. Excise Act, 1915. After investigation charge sheet been filed, which is pending before the CJM Mahasamund as Criminal Case No.1798/17. Learned counsel for the applicants would further submit that as per the allegation, from the joint possession of the applicants 20 bulk liter liquor kept in a tube has been seized. The applicants will not commit any offence in future. They may be granted one opportunity to remain in bail during trial.
3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants on the basis of quantity of liquor so seized from the applicants, though fairly conceded that the applicants had no criminal antecedent prior to the incident.

4. Perused the entire material.

5. As the applicants are in custody since 1 month and 16 days till date, charge sheet has been filed, trial may take some time, the applicants are first offender, no criminal antecedent is reported against the applicants, on 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.30,000/- with one solvent surety of the like sum to the satisfaction of the Chief Judicial Magistrate Mahasamund, 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 the applicants shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Saraipali, District Mahasamund, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of said criminal case against them. 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