

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5467 of 2017**

- Arun Nirala S/o Shri Chaindas Nirala, Aged About 47 Years R/o Village Charbhata, Police Station & Tahsil Baghbahra, Civil & Revenue District Mahasamund, Chhattisgarh
- Phool Singh Dhritlahre S/o Shri Chaindas Nirala, Aged About 29 Years R/o Village Charbhata, Police Station & Tahsil Baghbahra, Civil & Revenue District Mahasamund, Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Station Tendukona, Tahsil Baghbahra, Civil & Revenue District Mahasamund, Chhattisgarh

---- Respondent

 For Applicant : Shri JA Lohani, Advocate
 For Respondent/State : Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

07.9.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.61/2017 registered in Police Station Tendukona, Distt. Mahasamund (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicants submits that the applicants have been arrested on 21.7.2017, charge sheet is not yet filed, both the applicants have been remanded by Chief Judicial Magistrate, Mahasamund. As per the allegation, 16 bulk liters of hand made country liquor has been seized from joint possession of the applicants. They are the first offenders, they will not commit any

offence in future, as the trial may take some time for its conclusion, he may be released on bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicants on the basis of the quantity of liquor so seized from the applicants though fairly considered that there is no criminal antecedent reported against the applicants.

5. Perused the entire material.

6. The applicants are in custody for one month and seventeen days, charge sheet is not yet filed, the trial may take some time for its conclusion, the applicants are the first offenders, 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 applicants so that they will not commit any offence in future and shall remain peacefully in the society.

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

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with two separate solvent sureties of Rs.25,000/- to the satisfaction of concerned trial Judge 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 Tendukona, Distt. Mahasamund **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 Tendukona, Distt. Mahasamund as directed, the concerned police may inform the trial Court for the act and if his 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. Additional Registrar (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.

Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE