

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5408 of 2017**

1. Malikram & Anr. S/o Laxman Gond, Aged About 56 Years R/o Village Bhaisamuda, Police Station Gidhouri (Tundra), District Baloda Bazar Bhatapara, Chhattisgarh.
2. Kanhaiya S/o Malikram Gond, Aged About 31 Years R/o Village Bhaisamuda, Police Station Gidhouri (Tundra), District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Gidhouri (Tundra), District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	: Shri Samir Singh, Advocate.
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****06.09.2017**

Heard the matter finally.

2. The applicant have preferred this application for grant of bail as arrested, Kanhiaya (A-1) on 07/08/2017 and Malikram (A-2) in connection with Crime No. 130/2017, registered in Police Station Gidhouri (Tundra), Distt. Baloda Bazar-Bhatapara (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, applicants are remanded by the Chief Judicial Magistrate, Baloda Bazar, Baloda Bazar-Bhatapara (C.G.). Learned counsel for the applicants would submit that the applicants had

never involved in any of the offence in any offence and he will not commit any offence in future. As per allegation, from the applicant Kanhaiya (A-1) police had seized 47.400 bulk litre of handmade country liquor and the said liquor was also in the conscious possession of Malikram (A-2), as the trial may take some time for its conclusion, he 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, also following matters has been registered against the Kanhaiya (A-1) i.e. Complaint No.3/05 under Section 107 & 116 (3) of the Cr.P.C. and the Complaint No. 23/07 under Section 107 & 116 (3) of the Cr.P.C.

5. Perused the matter.

6. As the Kanhaiya (A-1) is in custody for 31 days and Malikram (A-2) is in custody for 30 days till date, charge-sheet is not yet filed, both the applicants were never involved in any of the similar offence or other penal offences except aforementioned 2 matters in connection with preventive proceedings has been initiated that 2 were 12 years and 10 years old respectively, though the quantity of liquor so seized is on the higher side, on consideration of the entire facts, I am inclined to grant one last opportunity to the applicant so that he 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.1,00,000/- with two solvent sureties of Rs.50,000/- each to the satisfaction of Chief

Judicial Magistrate, Baloda Bazar-Bhatapara (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. If bail is cancelled automatically in view of 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 Gidhoura (Tundra), Distt. Baloda Bazar-Bhatapara (C.G.) **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 Gidhoura (Tundra), Distt. Baloda Bazar-Bhatapara (C.G.) 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.

Deeptijha

Sd/-
(Chandra Bhushan Bajpai)
Judge