

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5665 of 2017**

1. Mukesh Kumar Sahu S/o Feruram Sahu Aged About 32 Years
R/o Dhaurabhata Police Station Dhamdha Tehsil Dhamdha
District Durg Chhattisgarh.
2. Rajesh Kumar Dhruw S/o Lala Ram Dhruw Aged About 22 Years
R/o Dhaurabhata Police Station Dhamdha Tehsil Dhamdha
District Durg Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer Dhamdha
District Durg Chhattisgarh.

---- Respondent

 For Applicants : Shri Avinash Chand Sahu, Advocate
 For Respondent/State : Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

18.9.2017

Heard the matter finally.

2. This is the 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.131/2017 registered in Police Station Dhamdha, Distt. Durg for the offence punishable under 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicants submits that the applicants have been arrested on 06.8.2017, charge sheet is not yet filed and the applicants have been remanded by Judicial Magistrate First Class, Durg. As per the allegation, from the joint possession of both the applicants 8.640 bulk liters of foreign liquor has been seized. Learned counsel for the applicants would submit that they will not

commit any offence in future, they may be given an opportunity to remain on bail as the trial may take some time for its conclusion.

4. Per contra, learned counsel for the State opposes the bail application and would submit that against applicant No.1 Mukesh Kumar Sahu following matters have been registered prior to the present matter:

Sl. No.	Crime Complaint No./	Offence under Section
01	180/2014	34(1)(a) of the CG Excise Act, 1915
02.	75/2015	294, 506, 323 IPC
03.	151/2015	36C of the CG Excise Act, 1915
04.	7/2015	36A of the CG Excise Act, 1915
05	216/2015	36C of the CG Excise Act, 1915
06	218/2016	36C of the CG Excise Act, 1915
07	219/2016	13 Gambling Act, 1867
08	Dt. 10.4.2016	107, 116(3) CrPC
09	Dt.17.7.2013	110 CrPC

5. Perused the entire material.

6. The applicants are in custody for one month and ten days, charge sheet is not yet filed, the trial may take sometime, against applicant No.2, no criminal antecedent is reported yet but against applicant No.1 aforementioned matters have been registered, out of which two matters were under preventive proceedings, one under the penal offence appears to be bailable one, one matter under Gambling Act also appears to be bailable one and five more similar cases under the Excise Act are bailable. On due consideration of

the entire facts, I am inclined to grant one opportunity to the applicants so that they will not commit any offence in future and shall remain peaceful in society

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

8. It is directed that the above mentioned applicants shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- each with two separate solvent sureties of Rs.50,000/- to the satisfaction of Judicial Magistrate First Class, Durg 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 Dhumda, Distt. Durg 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 does not appear before the Police of Dhumda, Distt. Durg as directed, the concerned police may inform the trial Court for the act and if his 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. 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