

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5974 of 2017**

1. Raja @ Rajesh Gauli S/o Shri Ramkrishan Aged About 30 Years
R/o Budhwaripara Ward No. 14 Dongargarh, Thana -
Dongargarh Civil & Revenue District Rajnandgaon Chhattisgarh.
2. Darshan Yadav S/o Shri Rajesh Yadav Aged About 20 Years R/o
Budhwaripara Ward No. 14 Dongargarh, Thana - Dongargarh
Civil & Revenue District Rajnandgaon Chhattisgarh.
3. Babu Vaidya @ Raja S/o Sukhlal Vaidya Aged About 20 Years
R/o Budhwaripara Ward No. 14 Dongargarh, Thana -
Dongargarh Civil & Revenue District Rajnandgaon Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer Police
Station Dongargarh District Rajnandgaon Chhattisgarh.

---- Non-applicant

For Applicants	: Shri Sunil Sahu, Advocate.
For Respondent/State	: Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11.10.2017**

1. 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 applicant, who has been arrested in
connection with crime No. 214/2017, registered in Police
Station Dongargarh, District Rajnandgaon (C.G.) for the
offence punishable under Section 34(2) of the Chhattisgarh

Excise Act 1915.

3. Learned counsel for the applicant would submit that the applicants has been arrested on 05.09.2017. Charge-sheet is not yet filed, and the applicants are remanded by Chief Judicial Magistrate Rajnandgaon, (C.G.). The applicant A-2 Darshan Yadav had preferred MCRCA 648/17, A-1 Raja Gauli had preferred MCRCA 650/2017, but as both the applicants arrested, at the request made on behalf of both the applicants both the MCRCA disposed of as infructuous on 10.10.2017. Learned counsel for the applicants would submit that as per allegation, on 12.07.2017 applicants were in illegal possession of 16.200 bulk liters foreign liquor and when the police attempted to stop all the applicants they left the said liquor and scooty bearing registration No. C.G. 08 A.A. 2256 and absconded from the spot, and ultimately arrested on 05.09.2017. Learned counsel for the applicants would submit that trial may take some time, they may be enlarged on bail.
4. Learned counsel would further submit that against A-1 following matters have been registered prior to the incident:-

Sl. No.	Crime/Complaint No.	Under Section
1.	344/13	34 (2) Chhattisgarh Excise Act, 1915.
2.	13/16	394, 323, 506 of I.P.C.
3.	105/16	34 (2) Chhattisgarh Excise Act, 1915.

Learned counsel for the applicants submits that A-3 Babu Vaidya crime No. 615/15 under Section 36 (C) of the Chhattisgarh Act, 1915 has been registered. The applicant A-1

acquitted in aforementioned to similar matter as the Chief Judicial Magistrate Rajnandgaon, C.G., while deciding the Criminal Case No. 2117/13 Judgment dated 12.12.2013, Criminal Case No. 1156/16 Judgment dated 7.10.16 acquitted the A-1 of the charges. The matter in relation to penal offences is pending and bailable one and also the matter registered against the applicant A-3 is bailable one. All the applicants will not commit any offence, they may be granted bail during the trial.

5. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants on the basis of aforementioned criminal incident, also as the applicants absconded from the spot leaving scooter and liquor and arrested after one month and 22 days, hence, the MCRC may be dismissed.
6. Perused the entire material.
7. As the applicants are in custody for 1 month 6 days till date, charge-sheet is not yet filed, trial may take some time, though aforementioned matter has been registered against A-1 and A-3 but as the A-1 is acquitted in the similar matter, the pending matter registered against the A-3 is also bailable one, on consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that he may not commit any offence in future and shall remain peacefully in the society.
8. Consequently, the instant MCRC is hereby allowed.
9. It is directed that the applicants shall be released on bail on

each of them furnishing a personal bond in the sum of Rs. 50,000/- with two solvent sureties each of Rs. 25,000/- to the satisfaction of Trial Court for their appearance before the said Court as and when directed.

10. 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; (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.

11. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Dongargarhi, District Rajnandgaon, on every 1st and 3rd Monday of every month at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remain absent without any cogent reason and proper reason as directed, the bail granted to applicants shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above,

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

12. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Judge

Pawan