

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3492 of 2017**

1. Mahendra Sahu S/o Latte Khilawan Ram Sahu, Aged About 30 Years
2. Ramchandra Dihiwar S/o. Shri Ghasiyaram Dhiwar, aged about 25 years.

Both are R/o Village- Paloud, Police Station- Mandir Hasoud, Tahsil- Arang, Civil & Revenue District- Raipur, Chhattisgarh.

---- Applicants

Versus

The State Of Chhattisgarh Through Station House Officer, Police Station Mahasamund , District- Mahasamund, Chhattisgarh

---- Respondent

And**MCRC No. 3574 Of 2017**

1. Kishan Lal Sahu S/o Pilaram Sahu, Aged About 26 Years R/o Village Baihar, Police Station Arang, District Raipur, Chhattisgarh.
2. Takeshwar Sahu S/o Shri Libhu Ram Sahu (wrongly Mentioned as late), aged about 22 Years R/o Village Paloud, Police Station Mandir Hasaud, District Raipur, Chhattisgarh.

---- Applicants

Vs

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

---- Respondent

For applicants (MCRC No. 3492/2017) : Mr. Sunil Sahu, Adv.
 For applicants (MCRC No. 3574/2017) : Mr. C.R. Sahu, Adv.
 For Respondent/State : Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****23-6-2017**

1. As both the above MCRCs arise out of the same crime number and incident hence they are being disposed of by the common order.
2. Heard finally.
3. All the 4 applicants have preferred these two applications for grant of bail as they are arrested on 30-3-2017 in connection with Crime No. 178/2017 registered in PS Mahasamund, Distt. Mahasamund (CG) for offence punishable under Section 34 sub-section (2) of the CG Excise

Act, 1915.

4. Learned counsel for the respective parties submit that applicants Kishan Lal Sahu and Takeshwar Sahu are in custody till date. Applicants Mahendra Sahu and Ramchandra Dhiwar had preferred Bail application No. 224/2017 before the 1st Additional Sessions Judge, Mahasamund, CG. In the said bail application, both the above applicants were granted ad-interim bail for 30 days on 3rd April, 2017 and they were released on ad-interim bail same day. Said bail application No. 224/2017 was disposed of directing both the applicants that they should surrender before the trial Court on 31st day. With this both applicants Mahendra Sahu and Ramchandra Dhiwar were required to surrender before the trial Court on 3rd May, 2017. Prior to their surrender before the trial Court, both the applicants prayed before the 1st Additional Sessions Judge that as the regular bail application is not disposed of, the same may be heard and disposed of accordingly. With this, the Additional Sessions Judge while hearing finally the said bail application No. 224/2017 rejected the prayer for release on regular bail to applicants Mahendra Sahu and Ramchandra Dhiwar on 10-4-2017 though earlier order for release on ad-interim bail of above 2 applicants till 2nd May 2017 remained as it is. Thereafter both the applicants preferred MCRC No. 2669/2017 before this High Court for their regular bail. This Court vide order dated 28-4-2017 declined to hear the matter unless and until both the applicants surrender first before the trial Court and thereafter come to this Court along with entire certified copies of order sheets showing grant of bail, surrender etc. and disposed of the said MCRC without any appreciation on its merit.
5. In compliance of the directions in MCRC No. 2669/2017, both the above applicants surrendered before the trial Court on 3rd May 2017 exactly on 31st day. Both the applicants were taken in custody by the

trial Court and sent to jail. On 4-5-2017, both the above applicants filed an application under Section 439 sub-section (1) of the Cr.P.C., 1973 for their release on regular bail. The 1st Additional Sessions Judge, Mahasamund dismissed the said application on 4-5-2017 thereafter both the applicants Mahendra Sahu and Ramchandra Dhiwar preferred instant MCRC for their released on bail which is the repeat bail application as aforementioned. Applicants Kishan Lal Sahu and Takeshwar Sahu had also preferred earlier MCRC No. 2561/2017 which was disposed of as withdrawn on 8-5-2017 in light of order passed on 20-4-2017 in MCRC No. 2669/2017. Thereafter applicants Kishan Lal Sahu and Takeshwar Sahu had preferred instant repeat bail application for their release on bail.

6. Learned counsel submits that both the applicants Mahendra Sahu and Ramchandra Dhiwar have remained in custody for total 1 month and 24 days till date. Applicants Kishan Lal Sahu and Takeshwar Sahu are in custody for 2 month and 23 days till date. The applicants are first offenders. As per allegation, all the above 4 applicants were travelling in a four wheeler bearing registration No. CG 17 d 1588 and carrying 57 bult litre country liquor in the said vehicle. Police during investigation seized said vehicle and the liquor from the joint possession of the above applicants. They will not commit any offence in future. Charge sheet has been filed which is pending before the CJM Mahasamund as Criminal Case No. S-976/2017. They may be granted bail till trial as the trial may take some time.
7. Per contra, learned counsel for the State in both the matters opposes the arguments advanced on behalf of the applicants on the basis of quantity of the liquor so seized from the joint possession of the applicants, though he fairly concedes that there is no criminal antecedent of the applicants regarding similar or any other offence.
8. Perused the entire matter.

9. As all the applicants are first offenders, they are in custody for the period as aforementioned, charge sheet has been filed, trial may take some time, they are local residents, though quantity of liquor so seized from the joint possession of all the applicants is on higher side but on account of other facts, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the CJM Mahasamund for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.
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. A copy of the order be also placed in the file of MCRC No. 3574/2017.
12. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge