

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No. 3873 OF 2015**

1. Sunil Kumar Singh, S/o Mahendra Singh, Aged about 35 years, R/o Madanpur, PS Madanpur, District Aurangabad (Bihar)
2. Munna Singh, S/o Gopal Singh, Aged about 32 years, R/o Gram Khetila, PS-Atari, District Gaya (Bihar)
3. Dileep Singh, S/o Kamta Singh Rajput, aged about 45 years, R/o Gram Ketaria, P.S. Mohpari, District Aurangabad (Bihar)

---Applicants**Versus**

State of Chhattisgarh, Through Excise Department, Dhamtari, District Dhamtari (C.G.)

---Non-applicant

For Applicants	:	Mr. Mateen Siddiqui, Advocate
For Non-applicant	:	Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/08/2015**

1. 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.112/2015, registered at Police Station **Excise Department Dhamtari** for the offence punishable under Sections 34(1)(A) & 34(2) **of the Chhattisgarh Excise Act.**
2. Case of the prosecution, in brief, is that applicants were found in possession of the 69.12 Bulk liter illicit foreign liquor.
3. Learned counsel for the applicants relying upon the statement of the applicants, which is part of charge sheet would submit that the applicants have not committed any offence and have been falsely implicated in offence

in question. He would further submit that liquor is said to be jointly seized from their possession. He would lastly submit that applications are in jail since 21/06/2015, therefore, they may be released on bail.

4. On the other hand, learned counsel for the State/non-applicant would oppose the bail application and submit that applicant No. 1-Sunil Kumar Singh was driving the vehicle, in which, 69.12 Bulk liters illicit liquor was found transporting by the applicants.

5. I have heard the counsel appearing for the parties and perused the case diary.

6. Taking into consideration the fact that applicant No. 1 was driving the vehicle, in which, 69.12 bulk liters illicit liquor was seized by the applicants, this Court is not inclined to release the applicant No. 1 on regular bail. Consequently, bail application filed under Section 439 of the Cr.P.C. on behalf of applicant No.1- Sunil Kumar Singh is rejected.

7. So far as the bail application filed on behalf of applicants No. 2 & 3 is concerned, taking into consideration the condition incorporated in Section 59-A(ii) of the C.G. Excise Act, 1915, and bearing in mind the principles of law laid down in **Banti Singh v. State of Chhattisgarh** (M.Cr.C. No.6846 of 2014, decided on 05.01.2015), if the facts of present case are examined, it is apparent that there is no criminal antecedent of the present applicants No. 2 & 3 and only 69.12 bulk liters of illicit liquor has been seized from them which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is first offence of the applicants No. 2 & 3 and they are in custody from 21/06/2015 and case is triable by the Judicial Magistrate First Class and trial is likely to take some more time and further taking into account the nature and gravity of offence and plea raised by the applicants No. 2 & 3 that they have

falsely been implicated in case, I am of the opinion that present is the fit case, in which, the applicants No. 2 & 3 should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that each of the applicants No. 2 & 3 i.e. Munna Singh and Dileep Singh, furnishes a personal bond for a sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Court for their appearance as and when directed, the applicants No. 2 & 3 shall be released on bail, subject to following conditions:-

- That, the applicants No. 2 & 3 shall furnish a specific undertaking that while on bail, they will not commit any excise offence, otherwise bail granted to them shall be liable to be cancelled and shall co-operate the prosecution during trial.
- That, the accused/applicants No. 2 & 3 shall make themselves available for interrogation before the concerned Investigating Officer as and when required and the accused/applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer.
- That, the accused/applicants No. 2 & 3 shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE