

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3684 of 2015

1. Ravi Sonkar, S/o Raju Sonkar, aged about 24 years,
2. Rahul Sonkar, S/o Late Rajesh Sonkar, aged about 18 years.
3. Sunny Sonkar, S/o Late Rajesh Sonkar, aged about 24 years.
4. Roshan Yadav, S/o Shiv Kumar Yadav, aged about 24 years,

All R/o Shivpara, Tehsil and District Durg (C.G.)

5. Paras Rajput, S/o Karan Singh Rajput, aged about 27 years.

R/o Gaya Nagar Durg, Tehsil and District Durg (C.G.)

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, P.S.
Kotwali Durg-District Durg (C.G.)

---- Non-applicant

For Applicants: Mr. A.C. Sahu, Advocate.
For Respondent/State: Mr. Annant Bajpai, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/08/2015

Heard.

(1) Counsel for the applicants submits that he may be

permitted to withdraw this bail application in relation to applicants No. 1 & 3 i.e. Ravi Sonkar & Sunny Sonkar.

(2) Accordingly, the bail application in relation to applicants No. 1 & 3 i.e. Ravi Sonkar & Sunny Sonkar is dismissed as withdrawn.

(3) Heard on bail application with regard to applicants No.2, 4 & 5 namely- Rahul Sonkar, Roshan Yadav & Paras Rajput.

(4) The accused/applicants No.2, 4 & 5 have moved this bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 510/2015 registered at Police Station Kotwali, Durg, District Durg for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

(5) Case of the prosecution, in brief, is that 43.2 bulk liters of illicit liquor was seized by the police from the applicants No. 2, 4 & 5.

(6) Learned counsel for the applicants No. 2, 4 & 5 submits that the applicants 2, 4 & 5 have falsely been implicated in the case, and therefore, they may be released on bail.

(7) On the other hand, learned counsel for the State opposes the bail application.

(8) I have heard the counsel appearing for the parties and perused the case diary.

(9) 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 only 43.2 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, 4 & 5 and they are in custody from 02.07.2015, case is triable by the Judicial Magistrate First Class, 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, 4 & 5 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, 4 & 5 should be enlarged on regular bail.

(10) Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for their appearance as and when directed, the applicants No. 2, 4 & 5 namely **Rahul Sonkar, Roshan Yadav & Paras Rajput** shall be released on bail, subject to following conditions:

- That, the applicants No. 2, 4 & 5 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, 4 & 5 shall make themselves available for interrogation before the concerned Investigating Officer as and when required and the accused/applicants No. 2, 4 & 5 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, 4 & 5 shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-