NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.No.4162 of 2015

1. Dilip Banjare, aged about 24 years, son of Bisun,
2. Gulab Chand Ratre son of Bahoran, aged about 19 years,

Both are resident of Village-Nagaradih, ahead of Government Higher Secondary School, Chakarbhatha, District-Bilaspur (CG)

---Applicants

Versus

State of Chhattisgarh Through: Station House Officer, Police Station-Masturi, District-Bilaspur (CG)

---Non-applicant

For Applicants : Mr. Shrawan Chandel, Advocate
For Non-applicant : Mr. S.Awasthy, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/08/2015

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.212 of 2015 registered at Police Station-Masturi, Distt.Bilaspur (CG), for the offence punishable under Sections 34(1) (a), 2, 3, 47-A (1) (2) and 59A of the Chhattisgarh Excise Act.

2. Case of the prosecution, in brief, is that, 15 bulk liters of illicit liquor was seized by the police from the present applicants.

3. Learned counsel for the applicants submits that the applicants are in custody since 12.7.2015. He further submits that the applicants have falsely been implicated in the case, and therefore, they may be released on

bail.

4. On the other hand, learned counsel for the State opposes the bail application.

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

6. 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 and only 15 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 and they are in custody since 12.7.2015 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 that they have falsely been implicated in case, I am of the opinion that present is the fit case, in which, the applicants should be enlarged on regular bail.

7. 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/-** each with one surety in the like sum to the satisfaction of the concerned Court for their appearance as and when directed, the applicants shall be released on bail, subject to following conditions:

- That, the applicants 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 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 shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

8. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-