

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 765 of 2016**

Naushad Khan son of Late Abdul Sakul Khan aged about 36 years resident of Kelabadi behind house of Altaf Parsad Kelabadi Durg Chowki Padmanabhpur P.S. Durg District Durg Civil and Revenue District Durg C.G.

---Applicant**Versus**

State of Chhattisgarh through S.H.O. Anda District Durg C.G.

---Non-applicant**And****M.Cr.C. No. 796 of 2016**

Vijay Soni @ Chamru Soni son of Buti Soni aged about 28 years resident of beside of Surana College Kelabadi Durg Chowki Padmanabhpur P.S. City Kotwali Durg District Durg Civil and Revenue District Durg C.G.

---Applicant**Versus**

State of Chhattisgarh through District Magistrate District Durg C.G.

---Non-applicant

For Applicants	:	Mr. Goutam Khetrapal, Advocate
For Non-applicant	:	Ms. Astha Shukla, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/02/2016

1. Above mentioned two bail applications arise out of a common Crime No. 175/2015, registered at Police Station Anda, Distt. Durg (C.G.), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, therefore, they are being heard analogously and decided by this common order. All the two are first bail applications filed under Section 439 of the Cr.P.C.
2. Case of the prosecution, in brief, is that 25.920 bulk liters of illicit liquor was seized by the police from the applicants.
3. Learned counsel for the applicants 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/non-applicant opposes the bail application.
5. I have heard the 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 25.920 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 from 21/11/2015 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 applications (M. Cr. C. Nos. 765/2016 and 796/2016) filed under Section 439 of the

Cr.P.C. are allowed. It is directed that each of the applicants i.e. Naushad Khan and Vijay Soni @ Chamru Soni, furnishes a personal bond for a sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the concerned trial 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