

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1546 of 2016

1. Prakash Singh, S/o Sudama Singh, Age 28 years, R/o Sirish, P.S. Warun, District Aurangabad, Presently R/o Padaw Chowk, Mungeli, Tehsil and District Mungeli (C.G.)
2. Sudhwa Ram Bhaskar, S/o Ramcharan Bhaskar, Age 55 years, Village Thakurkapa, Chowki Fastarpur, Tehsil & District Mungeli (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Police Chowki Fastarpur, P.S. City Kotwali, Mungeli (C.G.)

---- Non-applicant

ANDMisc. Criminal Case No.1550 of 2016

Kamlesh Yadav, S/o Ram Yadav, Age 28 years, R/o Dhrouli, P.S. Sainraj, U.P., Presently R/o Village Padwa, Chowki Mungeli, Tehsil and District Mungeli (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Chowki Fastarpur, P.S. City Kotwali, Mungeli (C.G.)

---- Non-applicant

For Applicants:	Mr. Abhishek Sinha, Advocate.
For Non-applicant:	Mr. Vivek Singhal, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board30/03/2016

1. Since both the applications are arising out of the same crime number, they are being disposed of by this common order.
2. The accused/applicants have moved these bail applications under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.85/2016,

registered at Police Chowki Fastarpur, Police Station City Kotwali, Mungeli, for the offence punishable under Sections 34(1)(a), 34(2) and 59-A of the Chhattisgarh Excise Act, 1915.

3. Case of the prosecution, in brief, is that the applicants were found in joint possession of 108 bulk liters of illicit liquor and thereby committed the offence.
4. Learned counsel for the applicants submits that the applicants have not committed any offence, they have falsely been implicated in the case, they are in custody since 12-2-2016 and therefore, they may be released on bail. There are no previous criminal antecedents against the applicants. Charge-sheet has been filed and even at the best, it can only be said that the applicants were found in possession of 35 bulk litres of liquor, as there are three applicants. Learned counsel further submits that this Court, in similar situation, in case of joint possession of liquor has granted bail to Munna Singh and Dileep Singh in M.Cr.C.No.3873/2015 by order dated 12-8-2015 and also to Arun Pandey and three others in M.Cr.C.No.4355/2015 by order dated 9-9-2015.
5. On the other hand, learned State counsel opposes the bail applications.
6. I have heard learned counsel appearing for the parties and perused the case diary.
7. Taking into consideration the condition incorporated in Section 59-A(ii) of the Chhattisgarh 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 the present case are examined, it is apparent that only 108 bulk liters of

illicit liquor has been seized from the applicants which is more than the prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicants and they are in custody since 12-2-2016, the 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 the plea raised by the applicants that they have falsely been implicated in the case, further considering that the liquor in question was seized from three applicants, the quantity of liquor is 108 bulk litres and the applicants have no previous criminal antecedents, I am of the opinion that present is a fit case in which the applicants should be enlarged on regular bail.

8. Accordingly, the bail applications filed under Section 439 of the CrPC are 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 namely **Prakash Singh, Sudhwa Ram Bhaskar and Kamlesh Yadav** shall be released on bail, subject to following conditions:

1. 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.
2. 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.

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

Sd/-
(Sanjay K. Agrawal)
Judge

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