

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1728 of 2016

1. Manu Matre, S/o Kanhaiya Matre, aged about 38 years,
2. Jitendra, S/o Balmukund Satnami, aged about 30 years,

Both R/o Village Paunsari, Police Station Bhatapara (Rural), Distt.
(Revenue & Civil) Balodabazar-Bhatapara (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Excise Circle Bhatapara, Distt.
(Revenue & Civil) Balodabazar-Bhatapara (C.G.)

---- Non-applicant

For Applicants:	Mr. Sanjeev Das, Advocate.
For Non-applicant:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/03/2016

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.299/2016, registered at Police Station Bhatapara, Distt. Balodabazar-Bhatapara, for the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act, 1915.
2. At the outset, learned counsel for the applicants seeks to withdraw this bail application on behalf of applicant No.1 Manu Matre with liberty to repeat after acquittal of applicant No.1 in criminal case relating to excise offence.
3. The application so far as it relates to applicant No.1 Manu Matre is dismissed as withdrawn with liberty aforesaid.
4. Case of the prosecution, in brief, is that 13.5 bulk liters of illicit liquor

was seized by the police from the present applicants.

5. Learned counsel for the applicant submits that applicant No.2 has not committed any offence, he has falsely been implicated in the case, he is in custody since 3-3-2016 and therefore, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. I have heard learned counsel appearing for the parties and perused the case diary.
8. 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 13.5 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 applicant No.2 and he is in custody from 3-3-2016, 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 applicant No.2 that he has falsely been implicated in the case, I am of the opinion that present is a fit case in which applicant No.2 Jitendra should be enlarged on regular bail.
9. Accordingly, the bail application so far as it relates to applicant No.2 Jitendra filed under Section 439 of the CrPC 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 his appearance as and when directed, applicant No.2

Jitendra shall be released on bail, subject to following conditions:

1. That, applicant No.2 shall furnish a specific undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.
2. That, accused/applicant No.2 shall make himself available for interrogation before the concerned Investigating Officer as and when required and the accused/applicant 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, accused/applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Sd/-
(Sanjay K. Agrawal)
Judge