

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1972 of 2016**

1. Pintu Singh, son of Ranjeet Singh, aged about 35 years, resident of Sakuguda, Police Station-Ramgarh, District – Hajaribag (Jharkhand)
2. Gangadhar Behra, son of late Lalit Behra, aged about 35 years, resident of Putka, Police Station-Saraipali, District – Mahasamund (C.G.)
3. Satyanarayan Rai, son of Suryakant Rai, aged about 54 years, resident of Bhadhbhiraha, Police Station- Amba, District – Aurangabad (Bihar)
4. Vikas Yadav, son of Ramkeshwar Yadav, aged about 26 years, resident of Mahulan, Police Station Salaya, District – Aurangabad (Bihar)
5. Virendra Gupta, son of Jagdish Gupta, aged about 48 years, resident of Baluganj, Police Station- Dev, District – Aurangabad (Bihar)

---- Applicants**Versus**

State Of Chhattisgarh Through: Station House Officer,
Police Station-Saraipali, District Mahasamund (C.G.)

---- Non-applicant

For Applicant: Mr. Aman Kesharwani, Advocate.
For Non-applicant/State: Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****11/04/2016**

Heard.

(1) The accused/applicants 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. 24/2016 registered at Police Station Saraipali, District Mahasamund (C.G.) for the offences punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

(2) Case of the prosecution, in brief, is that the applicants were found in joint possession of 126.860 bulk liters of illicit liquor and thereby committed the aforesaid offences.

(3) 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 detention since 16.01.2016 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 25 bulk liters of liquor, as there are five 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.

(4) On the other hand, learned counsel for the State 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 only 126.860 bulk liters of illicit liquor has been seized from the applicants 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 16.01.2016, 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 that they have falsely been implicated in case, further considering that the liquor in question was seized from five applicants, the quantity of liquor is 126.860 bulk liters and the applicants have no previous criminal antecedents, 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/- 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.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-