

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5501 of 2016

1. Govind, S/o. Ramkumar Kaushik, Aged About 35 Years.
2. Devi Kaushik, S/o. Narendra Kaushik, Aged About 30 Years.

Both are R/o. Village- Bavali, P.S. - Pathariya, Civil Distt. - Mungeli,
Revenue Distt. - Mungeli, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through the Station House Officer, Police
Station- Nandghat, Outpost - Maro, Distt.- Bemetara, Chhattisgarh.

---- Respondent

For Applicants : Mr. Sunil Sahu, Advocate

For Respondent : Mr. Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07.10.2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No.204/2016 registered at Police Station- Nandghat, Outpost- Maro, Distt. Bemetara (C.G.) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. As per the prosecution case, on 07.06.2016, on a raid being conducted, from the possession of the applicants, total 108 bulk liters of illicit country made liquor was seized; thereby the offence has been committed.
3. Learned counsel for the applicants would submit that this is the second bail application, the earlier bail application was dismissed as withdrawn with liberty to revive the same after examination of the seizure witness on 14.07.2016 in MCRC No.3679 of 2016. It is contended that one seizure witness namely Manish Shukla was

examined on 19.07.2016 and other witness Shivkumar remains to be examined and despite service of notice, he did not turn up and thereafter warrant was issued on 06.09.2016 and thereafter again arrest warrant has been issued on 04.10.2016 and the case is fixed for evidence. He further submits that the seizure witness Manish Shukla has not supported the case of the prosecution, therefore, the applicants may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he do not dispute the fact that the seizure witness Manish Shukla has been examined and he has not supported the case of the prosecution.
5. Perused the case diary, documents and the order sheet, which reveals that one of the seizure witness Manish Shukla has not supported the case of the prosecution. The order sheet also contains that notice could not be served to the other seizure witness and therefore arrest warrant has also been issued to him. Considering the facts & circumstances of the case and the fact that one seizure witness namely Manish Shukla has been examined and he has not supported the case of the prosecution, I am inclined to release the applicants on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
7. It is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy, today.