NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.No.6406 of 2017

1. Vijay Kumar Chelak S/o Chandu Lal, aged about 30 years, R/o Village Ghirghol, Police Station + Tehsil Pallari, District (Revenue & Civil) Balodabazar-Bhatapara (CG)
2. Laxmi Charan Dhritlahre S/o Late Shri Jugga, aged about 40 years, R/o Village Gabbod, Police Station + Tehsil – Pallari, District (Revenue & Civil) Balodabazar-Bhatapara (CG)

---Applicants

Versus

State of Chhattisgarh through the Police Station Pallari, District (Revenue & Civil) Balodabazar-Bhatapara (CG)

---Non-applicant

For Applicants	:	Mr.Sanjeev Das, Advocate
For Non-applicant	:	Mr. Aditya Sharma, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/11/2017

1. This is the First Bail Application under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.328 of 2017, registered at Police Station-Pallari, District-Balodabazar-Bhatapara (CG), for the offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.

2. Case of the prosecution, in brief, is that, 27 bulk liters of illicit liquor was seized by the police from the present applicants and 197 bulk liters of illicit liquor was seized from co-accused Lalit Chelak.

3. Learned counsel for the applicants submits that the applicants

have not committed any offence and they have falsely been implicated in crime in question. They are in custody since 21.9.2017.

4. On the other hand, learned counsel for the State opposes the bail application.

5. I have heard 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, only 27 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 the applicants are in custody since 21.9.2017, 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 this case, I am of the opinion that present is a 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/-** each 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 with investigation/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

B/-