

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6822 of 2017**

1. Dharmendra S/o Shri Bisnath, aged about 38 years.
2. Bachan, S/o Shri Bisnath, aged about 32 years.

Both are resident of Village Binaika, Out Post Malhar, Police Station Masturi, District Bilaspur (CG).

---- Applicants**Versus**

State of Chhattisgarh, through Station House Officer, Out Post Malhar, Police Station, Masturi, District Bilaspur (CG).

---- Non-applicant

For Applicants : Mr. Akhtar Hussain, Advocate
 For Non-applicant : Mr. Ashish Surana, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

14/11/2017**(1)** Heard.

(2) This is an application filed 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.394/2017 registered at Police Station Masturi, District Bilaspur, for the offence punishable under Section 34(1)(क), 34(2), 59 (क) of the Chhattisgarh Excise Act.

(3) Case of the prosecution, in brief, is that 10.00 bulk liters of illicit liquor was seized by the police from the present applicants.

(4) Learned counsel for the applicant submits that the applicants have not committed any offence and they have falsely been implicated in crime in question. They are in custody since 27.09.2017.

(5) On the other hand, learned counsel for the State opposes the bail application.

(6) I have heard the counsel appearing for the parties and perused the case diary.

(7) 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 10.00 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 27.09.2017, 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 case, 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 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:

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/applicant 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

L/-