NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.No.7211 of 2017

1. Rakesh Kumar Singh S/o Shri Nand Kumar Singh, Aged about 31 years, R/o Hiralal Colony, Near Uslapur Railway Station, Dist.-Bilaspur (CG)
2. Pappu Kumar Singh S/o Rajesh @ Rajendra Singh, Aged about 34 years, R/o Budhwa, P.S.-Amba, Dist.-Aurangabad, Bihar

---Applicants

Versus

State of Chhattisgarh through District Magistrate, Bilaspur (CG)

---Non-applicant

For Applicants	:	Mr.Rakesh Kumar Jha, Advocate
For Non-applicant	:	Mr. Dhiraj Wankhede, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

23/11/2017

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.60 of 2017, registered at Police Station-Excise Circle Takhatpur, District-Bilaspur (CG), for the offence punishable under Sections 34(1) (A), 34 (2) and 36 of the Chhattisgarh Excise Act.

2. Case of the prosecution, in brief, is that, 19.5 bulk liters of illicit liquor was seized by the police from the present applicants.

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 13.10.2017.

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 19.5 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 13.10.2017, 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/-