

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 852 of 2019

1. Paresh Gupta S/o Shri Satish Gupta Aged About 43 Years
(Wrongly mention In the Impugned order 46 Years) R/o Juni Line
Bilaspur Police Station City Kotwali, Tahsil And District Bilaspur,
Chhattisgarh.
2. Rohit Gupta, S/o Shri Rajesh Gupta Aged About 34 Years, R/o
Juni Line Bilaspur, Police Station City Kotwali Tahsil And District
Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station City Kotwali
Bilaspur District Bilaspur Chhattisgarh.

---- Respondent

For Applicants : Mr. Dheerendra Pandey, Advocate.

For Respondent/State : Mrs. Smita Ghai, PL.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

20/02/2019

1. The Applicants have preferred this second bail application under
Section 439 of Cr.P.C. for grant of regular bail as they are
arrested in connection with Crime No. 493/2018, registered at

Police Station–City Kotwali, District- Bilaspur (C.G.) for the offence punishable under Section 34(2) & 59-A of the CG Excise Act.

2. First bail was rejected on merits vide order dated 10.12.2018 passed in MCRC No 9405/2018.
3. As per the prosecution story, on 17.11.2018, on the basis of information received from an informant, police officials searched a vehicle bearing Registration No. CG 10 AL 8976 and found total 129.060 bulk liters of foreign liquor, inside the vehicle. Liquor has been seized from the possession of Applicant No. 1 Paresh Gupta, allegedly Applicant No. 2 was seated in the said vehicle along with Applicant No. 1. The applicants have been taken in custody on the same day.
4. Learned Counsel appearing on behalf of the Applicants submits that after the rejection of first bail application on merits by this Court vide order dated 10.12.2018, an SLP 157/2019 has been preferred by the Applicants before the Supreme Court which was disposed of vide order dated 15.01.2019 and liberty was granted to the petitioners to approach the Trial Court for grant of regular bail. It was also directed by the Supreme Court that application be considered expeditiously as the sentence provided for commission of stated first offence is minimum one year and maximum three years and including the time line specified in Section 59-A of the Chhattisgarh Excise Act, 1915. Learned Counsel for the Applicants further submits that thereafter, as directed by the Supreme Court, an application for grant of bail has been submitted by the Applicants before the Trial Court which was rejected and thereafter vide order dated 26.11.2018, learned Sessions Judge also rejected the bail application. Learned Counsel further submits that at the time of rejection of

first bail application i.e. on 10.12.2018, charge-sheet has not been filed but, presently the charge-sheet of the case has been filed. He further submits that both the Applicants are in custody since 17.11.2018 that is around more than three months, therefore, considering the change in circumstances of the case, the Applicants may be released on bail.

5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that the Applicants are in custody since 17.11.2018, charge-sheet has already been filed and trial will likely to take some time. Considering the above change in circumstances of the case, without further commenting on merits of the case, I am inclined to release the Applicants on bail.
8. Accordingly, the bail application is allowed.
9. It is directed that the Applicants shall be released on bail on each of them executing a personal bond for a sum of Rs. 50,000/- with one local solvent surety for the like amount to the satisfaction of the Trial Court for their appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)

Judge