

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No.1275 of 2019**

1. Abhishek Chouhan, son of Soma Chouhan, aged about 28 years.
2. Manohar Malviya (wrongly mentioned as Malvi), son of Laxman Ji Malviya, aged about 23 years.

R/o Melaniya, Tahsil Mahidpur, Police Station Raghvi, District Ujjain (M.P.).

---- Applicants**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Bhairamgarh, District Bijapur (CG).

---- Non-applicant**AND****MCRC No.1303 of 2019**

Devi Singh Dayama, son of Gamgaram Dayama, aged about 29 years, R/o Melaniya, Tahsil Mahidpur, Police Station Raghvi, District Ujjain (M.P.).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Bhairamgarh, District Bijapur (CG).

---- Non-applicant

For Applicants : Mr. Goutam Khetrapal, Advocate
For Non-applicant : Mr. Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****27.02.2019**

1. Above mentioned two bail applications arise out of a common Crime No.39/2018 registered at Police Station Bhairamgarh, District Bijapur for the offence punishable under Section 34(2) of Chhattisgarh Excise Act, therefore, they are being heard analogously and decided by this common order. All the two are second bail applications filed under Section 439 of the CrPC.
2. The first bail application of the applicant Abhishek Chouhan was dismissed by this Court vide order dated 03.01.2019 passed in M.Cr.C. No.9530/2018 on the ground that he was not pressed his bail application and on the same date on same first bail application of the applicants namely Devi Singh Dayama and Manohar Malviya was rejected by this Court considering *prima facie* of case against them.

3. Case of the prosecution, in brief, is that on 10.08.2018, Sub Inspector Ramchandra Sahu posted at Police station Bhairamgarh apprehended the truck bearing registration No.S.P.09 KD 2139. The driver of the said truck was applicant Abhishek Chouhan. The applicants Devi Singh Dayama and Manohar Malviya were also present in the said truck. The said Sub-Inspector seized 6.705 bulk liters of foreign liquor from the possession of the applicant Abhishek Chouhan and his associates.
4. Counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. He further submitted that the applicants are in jail for more than 06 months. None of the witnesses examined before the trial Court, who had stated that applicant Devi Singh Dayama was present in the said truck. The seizure witnesses have been turned hostile before the trial Court hence the applicant Abhishek Chouhan cannot be fastened with the crime hence the applicants may be released on bail.
5. Counsel for the State opposed the bail application.
6. In the case in hand, yet now the Investigating Officer is to be examined.
7. Merely turning hostile of seizure witnesses is not a sufficient ground for releasing the applicants on bail.
8. Looking to the facts and circumstances of the case, huge quantity of the liquor seized in the case and looking to the impact of granting bail to the applicants on society, this Court is not inclined to grant bail to applicant Abhishek Chouhan. Consequently, his second bail application (M.Cr.C.No.1275/2019) is rejected.
9. Looking to this fact there is no change in the circumstances of the case on the strength of which the applicants Manohar Malviya and Devi Singh Dayama be released on bail. Consequently, their second bail applications (M.Cr.C.No.1275/2019 & M.Cr.C.No.1303/2019) are rejected.
10. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)
JUDGE

L/-