

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 6660 of 2019**

- Budharu Tandon & Anr. S/o Bikauram Tandon Aged About 53 Years R/o Village - Siliyari, Police Station - Dharsiwa, District - Raipur Chhattisgarh. Present R/o Village - Hathband, Police Station Simga, District - Baloda Bazar - Bhatapara Chhattisgarh.
- Pratap Lahre S/o Ramkhilawan Lahre, Aged About 28 Years R/o Village - Kutela, Police Station - Masturi, District - Bilaspur Chhattisgarh. Present R/o Village - Hathband, Police Station Simga, District - Baloda Bazar - Bhatapara Chhattisgarh.,

**---- Applicants**

**Versus**

- State Of Chhattisgarh Through Police Station - Simga, District - Baloda Bazar - Bhatapara Chhattisgarh.

**---- Respondent**

---

|                      |                                  |
|----------------------|----------------------------------|
| For Applicants       | : Shri Ravindra Sharma, Advocate |
| For Respondent/State | : Shri Akhtar Hussain, PL        |

---

**Hon'ble Smt. Justice Rajani Dubey**

**Order On Board**

**21/10/2019**

The applicants have filed this application under Section 439 of the Code of Criminal Procedure for grant of regular bail as they are in custody in connection with Crime No. 389/2019 registered at police station Simga, district Baloda Bazar, Bhatapara (CG) for the offence punishable under Section 34 (2) of the Excise Act.

As per prosecution case, on 22.09.2019, after receiving information, the police intercepted and seized 5.580 bulk liters of illicit country made liquor from the possession of the applicants who were

carrying the same in a motorcylce.

Counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the crime in question. He submits that the applicants are in jail since 22.9.19 and the trial may take some time for its disposal and therefore they may be released on bail.

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

Heard counsel for the parties.

Considering the totality of the facts and circumstances of the case, in particular the detention period of the applicants and the fact that as per condition laid down in Section 59-A(ii) of the CG Excise Act 1915 and also the principles of law laid in **Banti singh Vs. State of Chhattisgarh (MCRC No. 6846 of 2014)**, the applicants were found in possession of 5.580 bulk liters of illicit liquor which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicants are in custody since 22.09.19, case is triable by Judicial Magistrate First Class, the trial is likely to take some more time and also looking to the gravity of the offence, I am inclined to release them on regular bail. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is allowed.

It is directed that in the event of each of the applicant's furnishing a personal bond of Rs. 50,000/- with one surety in the like sum to the satisfaction of the concerned court for their appearance before it as and when directed, they shall be released on bail subject to the following conditions:

I) That the applicants shall furnish a specific undertaking that while on bail, he/she will not commit any excise offence, otherwise bail granted to him/her shall be liable to be cancelled and shall co-operate the prosecution during trial.

ii) that the accused/applicants shall make himself/herself 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.

lii) That the accused/applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Sd/-  
(Rajani Dubey)  
Judge