

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7406 of 2019**

1. Sanjay Kumar Gaharwal S/o Parasram Gaharwal Aged About 27 Years, R/o Ward No. 12 Bhatapara Colony, Tumgaon, Thana Tumgaon, District- Mahasamund, Chhattisgarh.
2. Hemu Nisad S/o Uderam Nishad Aged About 35 Years, R/o Ward No. 12 Bhatapara Colony, Tumgaon, Thana Tumgaon, District- Mahasamund, Chhattisgarh.
3. Vinod Tandan S/o Amardas Tandan Aged About 30 Years, R/o Ward No. 12 Bhatapara Colony, Tumgaon, Thana Tumgaon, District- Mahasamund, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh, Through : Station House Officer, Police Station- Sakari, District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Vikash Pradhan, Advocate.
 For Respondent/State : Mr. Anurag Verma, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****04/12/2019**

- The accused/applicants have moved this first bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 290/2019 registered at Police Station – Sakari, District-Bilaspur (C.G.) for the offence punishable under Sections 34(2) and 59 (A) of the C.G. Excise Act.
- It is the case of the prosecution that, 104.400 bulk liters of illicit liquor was seized by the police from the custody of applicants and thereby committed the offence.
- Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in

question. He further submits that as the applicants are in custody since 27.09.2019 and the trial is likely to take some time for its final disposal, they may be released on bail.

- On the other hand, counsel for the State opposes the bail application.
- 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, it is apparent that only 104.400 bulk liters of illicit liquor has been seized from them which is more than prescribed limit of 5 bulk liters, but looking to the fact that the applicants are in custody since 27.09.2019, 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 the fit case, in which, the applicants should be enlarged on regular bail.
- Accordingly, the application is allowed. It is directed that on furnishing a personal bond in the sum of Rs. 1,00,000/- 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 shall not commit any excise offence, otherwise bail granted to them

shall be liable to be cancelled and shall co-operate the prosecution during 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 them 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.

**Sd/-
(Rajani Dubey)
Judge**