

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7808 of 2019

- Purshotam S/o Shri Sonu Dewangan Aged About 20 Years R/o Gauri Nagar, Ward No. 14, Out Post Chikhali, Police Station - Kotwali, District - Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Excise Circle, District - Rajnandgaon Chhattisgarh.

---- Respondent

MCRC No. 8045 of 2019

- Mohd. Imraan Gauri, S/o Shri Mohd. Bashir Gauri, Aged About 25 Years, R/o Diwan Para, Police Station - Kotwali, District - Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Excise Circle, District - Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	: Shri Ishan Verma, Advocate
For Respondent/State	: Smt. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

11/12/2019

As both these M.Cr.Cs. arise out of the same crime number, they are being disposed of by this common order.

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. 100/2019 registered at police station Kotwali, district Rajnandgaon (CG) for the offence punishable under Sections 34(2) and 59 (A) of the CG Excise Act.

As per prosecution case, on 21.11.2019, the applicants were found in possession of 25 Cartons containing 50 bottles each (180 ml. Each) total of 1250 bottles of foreign liquor which they were transporting from Maharastra to Rajnandgaon.

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 21.11.19 and 22.11.2019, the trial may take some time for its disposal and therefore they 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 25 cartons of foreign liquor totalling to 225 bulk litres which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicants are in custody since 21.11.19 and 22.11.2019, 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, their

applications filed under Section 439 of the Code of Criminal Procedure are allowed.

It is directed that in the event of the applicants' furnishing a personal bond of Rs. 50,000/- each 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, they will not commit any excise offence, otherwise bail granted to them shall be liable to be cancelled and shall co-operate the prosecution during trial.
- ii) 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.
- iii) That the accused/applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

Sd/-
(Rajani Dubey)
Judge