

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1290 of 2020

- Ratnu Markam S/o Shri Jhinga Markam Aged About 22 Years
R/o Nearby Mathpurena, Dewarpara, Police Station Tikrapara,
Tahsil And District Raipur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of
Police Station Tikrapara, Raipur, District Raipur Chhattisgarh.,

---- Respondent

MCRC No. 1392 of 2020

- Omprakash Sonwani S/o Mahipal Sonwani Aged About 22 Years
R/o Nearby Water Tank, Mathpurena, Dewar Dera, Police
Station Tikrapara, And District Raipur Chhattisgarh

----Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of
Police Station Tikrapara, Raipur District Raipur Chhattisgarh,

---- Respondent

For Applicants	: Shri Rekhraj Baghel, Advocate
For Respondent/State	: Smt. Reena singh, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26/02/2020

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. 56/2020 registered at police station Tikarapara, district Raipur (CG) for the offence punishable under Sections 34(1)(A)(F)(H), 34 (2) 36 of the Excise Act.

Prosecution case is that after receiving secret information, the police party raided and seized 35 and 40 quarters of Bombay Goa Whisky each from the possession of applicants.

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 29.01.2020 and 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 35 and 40 bulk litres of illicit Bombay Goa whisky which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicants are in custody since 29.01.2020, 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 application filed under Section 439 of the Code of Criminal Procedure is allowed.

It is directed that in the event of the applicants' furnishing a personal bond of Rs. 50,000/- with one surety each 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 him/her 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