

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 1817 of 2020**

1. Thaneshwar Bairagi S/o Shri Bhushan Bairagi, Aged about 29 years.
2. Ishwar Kshatriya S/o Shri Shatrughan Kshatriya, Aged about 35 years.

Both are R/o Village Saraypali, P.S. Beltukai, Tahsil and Distt. Nuapada, Orissa.

---Applicants

Versus

State Of Chhattisgarh Through Excise Officer,
Excise Circle Baghbahra, Distt. Mahasamund,
Chhattisgarh.

--- Non-applicant/State

For Applicant	:- Mr. Sunil Sahu, Advocate
For State	:- Mr. Gagan Tiwari, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

15/05/2020

1. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No. 59/2020, registered at Police Station-Excise Circle Baghbahra, District Mahasamund (C.G.), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

2. Case of the prosecution, in brief, is that, 42 bulk liters of illicit liquor was seized by the police from the present applicants.
3. Learned counsel for the applicants submits that the present applicants have not committed any offence and they have falsely been implicated in crime in question. He is in custody since 01/03/2020.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. 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**¹, if the facts of present case are examined, it is apparent that there is no criminal antecedent of the present applicants and only 42 bulk liters of illicit liquor have been seized from them which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicants and they are in custody since 01/03/2020 and case is triable by the Judicial Magistrate First Class and trial is likely

¹ 2015(2) C.G.L.J. 341

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.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed. It is directed that on furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed, the applicant shall be released on bail, subject to following conditions:

(i) That, the applicants shall furnish a specific undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him 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.

8. It is made clear that if the applicants have already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23/03/2020 in the matter of **In Re :** **Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), they need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if they have not furnished the bail bonds earlier, then they will be required to furnish bail bonds within four weeks from today.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge