

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1898 of 2020

1. Shivlal Kahar @ Jani S/o Bishaliya Kahar, Aged About 28 Years
2. Pappu Burman @ Pootan, S/o Mannu Burman, Aged About 27 Years

Both R/o Village Dhanpuri Ward No. 13, Chhot Post Bartara, Tahsil Budhar, District Shahdol (Madhya Pradesh), District : Shahdol, Madhya Pradesh

---- Applicants

Versus

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

---- Respondent

For Applicants	: Shri Vipin Singh, Advocate
For Respondent/State	: Shri Vinod Tekam, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18/03/2020

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. 38/2020 registered at police station Nevra, district Raipur (CG) for the offence punishable under Section 34 (2) of the Excise Act.

Prosecution case in brief is that after receiving secret information, the police party raided and seized 810 bulk litres of illicit liquor from the possession of applicants which was kept in a Pick up Van.

Counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the crime in question. He further submits that similarly placed co-accused have been granted bail by this Court vide order dated 04.03.2020 in M.Cr.C. No. 1610/2020 and therefore the present applicants may also be granted the benefit. He submits that the applicants are in jail since 24.01.2020 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 810 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 24.01.2020, 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