NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.2103 of 2020

1. Narendra, S/o Ramkumar Koshle, aged about 28 years,

2. Lokesh, S/o Ramkumar Koshle, aged about 30 years,

Both are R/o Village Garra, Post Office Karesara, Police Station & District Bemetara (C.G.)

(In Jail)
---- Applicants

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Bemetara, District Bemetara (C.G.)

---- Non-applicant

For Applicants: Mr. Sanjeev Kumar Sahu, Advocate.
For Non-applicant: Mr. Gagan Tiwari, Dy. Government Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

02/06/2020

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.144/2020, registered at Police Station Bemetara, Distt. Bemetara, for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

2. Case of the prosecution, in brief, is that 6.330 bulk liters of illicit liquor was seized by the police from the present applicants.

3. Learned counsel for the applicants submits that this is the first bail application filed on behalf of the applicants for grant of regular bail, the applicants have not committed any offence, they have falsely been implicated in the case, the applicants have been arrested on 8-3-2020 and therefore, they may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail

application.

5. I have heard learned counsel appearing for the parties.

6. Taking into consideration the condition incorporated in Section 59-A(ii) of the Chhattisgarh Excise Act, 1915, and bearing in mind the principles of law laid down in the matter of **Banti Singh v. State of Chhattisgarh**[1], if the facts of the present case are examined, it is apparent that only 6.330 bulk liters of illicit liquor has been seized from the applicants which is more than the prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicants and they have been arrested on 8-3-2020, the case is triable by the Judicial Magistrate First Class, trial is likely to take some more time and further taking into account the nature and gravity of offence and the plea raised by the applicants that they have falsely been implicated in the case, I am of the opinion that present is a fit case in which the applicants should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the CrPC is allowed. It is directed that on furnishing a personal bond in the sum of Rs.25,000/- 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:

    1. 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.

    2. 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

1 2015(2) C.G.L.J. 341

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.

3. 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 23-3-2020 in the matter of **In Re : Contagion of COVID 19 Virus in Prisons** (Suo Motu 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 bail bonds earlier, then they will be required to furnish bail bonds.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma