

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2355 of 2020

- Rakesh Kumar Sonwani And Anr. S/o Late Sevakram Sonwani, Aged About 35 Years R/o Village - Amera, Police Station - Pallari, District - Baloda - Bazar - Bhatapara Chhattisgarh.,
- Sudhesh Kumar Sonwani, S/o Suresh Kumar Sonwani, Aged About 20 Years R/o Village - Khamhariya, Police Station - Baloda - Bazar, District - Baloda - Bazar - Bhatapara, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh, Through - S.H.O. Police Station - Pallari, District - Baloda - Bazar - Bhatapara Chhattisgarh.

---- Respondent

For Applicants	: Shri Hemant Gupta, Advocate
For Respondent/State	: Shri Samir Sharma, Dy.GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

28/05/2020

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. 140/2020 registered at police station Palari, district Baloda Bazar-Bhatapara (CG) for the offence punishable under Section 34 (2) of the Excise Act.

As per prosecution case, on 05.05.2020, after receiving secret information, the police raided and seized 648 bulk litres of illicit foreign liquor from the possession of the 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 03.04.2020 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 648 bulk liters of illicit foreign liquor which is more than the prescribed limit of 5 bulk liters, but looking to the fact that the applicants are in custody since 03.04.2020, 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. 1,00,000/- 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.

It is made clear that if the applicants' have already been released on bail pursuant to the bail bonds already furnishing 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.

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Sd/-
(Rajani Dubey)
Judge