

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.2385 of 2020**

Mohammad Rahim S/o Mohammad Akhtar, aged about 30 years, R/o Village – Madhaul Rasulpur, Mohinuddin, Police Station – Mahua, District – Vaishali (Bihar), Present Address – Tandava, Police Station – Tilda (Newra), District Raipur (CG)

---Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station-Tilda (Newra), District Raipur (CG)

---Non-Applicant

And**M.Cr.C.No.3644 of 2020**

Avinash Wadhwa S/o Rajkumar Wadhwa, aged about 31 years, R/o Ward No.13, Jhulelal Ward, Setpal Nagar, Newara, PS Newara, District Raipur (CG)

---Applicant

Versus

State of Chhattisgarh Through the SHO, Police Station-Tilda-Newara, District Raipur (CG)

---Non-Applicant

For Applicant	:	Mr.Dharmesh Shrivastava, Advocate in
		M.Cr.C.No.2385 of 2020
For Applicant	:	Mr.Sabyasachi Bhaduri, Advocate in
		M.Cr.C.No.3644 of 2020
For Non-applicant/State	:	Mrs.Fouzia Mirza, Addl.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/09/2020

1. Since the aforesaid two bail applications have been filed against the same crime number i.e. Crime No.120/2020, therefore, they are being disposed of by this common order.
2. The accused/applicants have moved these bail applications under Section 439 of the Code of Criminal Procedure, 1973 for release them on

regular bail during trial in connection with Crime No.120/2020, registered at Police Station-Tilda (Newra), Distt.Raipur (CG), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Case of the prosecution, in brief, is that 126.600 bulk liters of illicit liquor was recovered from possession of applicant-Mohammad Rahim and on the basis of his memorandum, applicant-Avinash Wadhwa has been arrested.

4. Mr.Dharmesh Shrivastava, learned counsel for the applicant in M.Cr.C.No.2385 of 2020, would submit that the applicant has not committed any offence and he has falsely been implicated in crime in question. He has been arrested on 4.4.2020 and the trial is likely to take time for its conclusion and as such, the applicant is entitled to be released on regular bail.

5. Mr.Sabyasachi Bhaduri, learned counsel for the applicant in M.Cr.C.No.3644 of 2020, would submit that the applicant has not committed any offence, no recovery has been made from him and on the basis of memorandum of applicant-Mohammad Rahim, he has falsely been implicated in crime in question. He would further submit that out of five criminal cases, he has been acquitted in four criminal cases and in one criminal case he has been enlarged on bail by this Court. He has filed copies of ordersheets acquitting him in four criminal cases. He has been arrested on 27.5.2020 and the trial is likely to take time for its conclusion and as such, the applicant is entitled to be released on regular bail.

6. On the other hand, Mrs.Fouzia Mirza, learned Additional Advocate General for the State, would point out the criminal antecedents of the applicant-Avinash Wadhwa.

7. I have heard learned counsel appearing for the parties and perused the case diary.

8. Taking into consideration the facts & circumstances of the case, nature & gravity of offence, pre-trial detention of the applicants and quantity of liquor, this Court is of the opinion that present is a fit case, in which, the applicants should be enlarged on regular bail.

9. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

10. It is directed that applicants-**Mohammad Rahim** and **Avinash Wadhwa** shall be released on bail on their furnishing a personal bond in the sum of ₹ 50,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

11. 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

B/-