

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 2366 of 2020**

1. Dhaneshwar Tarak S/o Bharosa Ram Tarak Aged About 27 Years R/o Village Kuruskera, Police Station Rajim, District Gariaband, Chhattisgarh.
2. Rahul Rao Pawar S/o Late Shri Ramesh Rao Pawar Aged About 26 Years R/o Village Kuruskera, Police Station Rajim, District Gariaband, Chhattisgarh.

---Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Dabhara/district-Magistrate, Janjgir, District- Janjgir-Champa, Chhattisgarh.

--- Non-applicant/State

For Applicants:- Mr. Pragalbha Sharma, Advocate
 For State :- Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****05/05/2020**

1. Mr. Pragalbha Sharma, learned counsel for the applicants, undertakes to comply the Chhattisgarh High Court Rules, 2007 as well as undertakes to file copy as required under the Guidelines for E-mail Filing and Virtual Hearing During Lockdown Period.
2. With the consent of the parties, the matter is heard finally.

3. 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. 42/2020, registered at Police Station-Panduka, District Gariaband (C.G.), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
4. Case of the prosecution, in brief, is that, 7 bulk liters of illicit liquor was seized by the police from the present applicants.
5. Learned counsel for the applicants submits that the applicants have not committed any offence and they have falsely been implicated in crime in question. They are in custody since 23/04/2020.
6. On the other hand, learned counsel for the State opposes the bail application.
7. I have heard learned counsel appearing for the parties and perused the case diary.
8. 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

¹ 2015(2) C.G.L.J. 341

antecedent of the present applicants and only 7 bulk liters of illicit liquor has 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 23/04/2020 and case is triable by the Judicial Magistrate First Class and trial is likely 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.

9. 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, they will not commit any excise offence, otherwise bail granted to them shall be liable to be canceled and shall co-operate the prosecution during trial.

(ii) That, the 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.

10. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet