

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2757 of 2020**

1. Hiralal Kaiwart, S/o Chanaram, Aged About 49 Years, R/o Village Jali, Thana- Ratanpur, District- Bilaspur, Chhattisgarh.
2. Sitaram Kaiwart, S/o Faguram Kaiwart, Aged About 30 Years, R/o Village Lagra, Thana- Sarkanda, District- Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through The Station House Officer P.S.- Ratanpur, District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Nitansh Kumar Jaiswal, Advocate.
For Respondent	:	Mr. Rahul Jha, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****01/06/2020**

- Heard on admission.
- Admit.
- The accused/applicants have moved this first bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 301/2020 registered at Police Station- Ratanpur, District - Bilaspur, (C.G.) for the offence punishable under Section 34 (2) of the C.G. Excise Act.
- It is the case of the prosecution that, on 03.05.2020, total 12 bulk liters of illicit liquor has been seized by the police from the custody of applicants and thereby committed the offence and they have been arrested.
- Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question. He further submits

that as the applicants are in custody since 03.05.2020 and the trial is likely to take some time for its final disposal, they may be released on bail.

- On the other hand, counsel for the State opposes the bail application and the submission made in this respect. It is further submitted that the unauthorized quantity of liquor has been seized from the possession of the applicants and the crime has been committed during the lock-down period, therefore, they may not be released on bail.
- 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* (M.Cr.C. No.6846 of 2014), decided on 05.01.2015), if the facts of present case are examined, it is apparent that only 12 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 the applicants are in custody since 03.05.2020, 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.
- Accordingly, the application is allowed. It is directed that on furnishing a personal bond in the sum of Rs. 50,000/- 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:

- That, the applicants shall furnish a specific, undertaking that while on bail, they shall not commit any excise offence, otherwise bail granted to them shall be liable to be cancelled and shall co-operate the prosecution during trial.
- 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.
- 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 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 23.03.2020 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.
- Certified copy, as per rule.

Sd/-
(Rajani Dubey)
Judge