

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 2998 of 2020**

1. Harish Chandra Nishad S/o Peelaram Nishad, Aged about 23 years.
2. Lekhraj S/o Bhagirathi Maheshwari, Aged about 22 years.

Both are R/o Village Kachalon, Thana and Tahsil Simga, Distt. Baloda Bazar-Bhatapara, Chhattisgarh.

---Applicants

Versus

State Of Chhattisgarh Through the Police Station Simga, Distt. Baloda Bazar, Bhatapara, Chhattisgarh.

--- Non-applicant/State

For Applicant :- Mr. Deepak Jain, Advocate
 For State :- Mr. Rahul Jha, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

09/06/2020

1. Proceedings of this matter have been taken up for hearing through video conferencing from the High Court premises at Bodri, Bilaspur.
2. 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. 119/2020, registered at Police Station Thana Simga, Distt. Baloda Bazar-Bhatapara

(C.G.), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that, 25.920 bulk liters of illicit liquor was seized by the police from the present applicants.

4. 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 05/04/2020.

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

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

7. 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 antecedent of the present applicants and only 25.920 bulk liters of illicit liquor has been seized from them which is less than prescribed limit of 22 bulk liters, but looking to the fact that it is the first offence of the applicants and they are in custody since 05/04/2020 and case is

¹ 2015(2) C.G.L.J. 341

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.

8. 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 applicants 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 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 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.

9. 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.

10. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge