

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3912 of 2020**

1. Vishnu Sahu, S/o. Shri Netram Sahu, aged about 37 years, R/o. Village – Kolda, Thana – Khallari, Tahsil & Distt. - Mahasamund (C.G.)
2. Udayram, S/o. Shri Bhikuram, aged about 34 years, R/o Village – Amurda, Thana – Khallari, Tahsil & Distt. - Mahasamund (C.G.)

---- Applicants**Versus**

The State of Chhattisgarh, Through the Station House Officer Police Station – Khallari, Distt. Mahasamund (C.G.)

----Non-applicant

For Applicants : Mr. Sumit Shrivastava, Advocate.
 For Non-applicant/ State : Mr. Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/08/2020**

- (1) Proceedings of this matter have been taken up through video conferencing.
- (2) The accused/applicants have preferred this bail application under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 124/2020 registered at Police Station – Khallari, Distt. Mahasamund (C.G.) for the offence punishable under Section 34(2) of the CG Excise Act.
- (3) Case of the prosecution, in brief, is that applicant No. 1 was found in possession of 54 bulk liters of illicit liquor *whereas* applicant No. 2 was found in

possession of 198 bulk liters of illicit liquor unauthorizedly and without authority of law and thereby committed the aforesaid offence.

(4) Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question as there is no evidence on record to connect the applicants with the crime in question. He further submits that as the applicants have been arrested on 13.06.2020 and trial is likely to take some time for its final disposal, they may be released on bail.

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

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

(7) So far as the bail application with regard to applicant No. 2 is concerned, looking to the huge quantity of illicit liquor i.e. 198 liters seized from his possession, I am not inclined to release him on bail. Therefore, bail application of applicant No. **2- Udayram** is rejected.

(7) So far as the bail application with regard to applicant No. 1 – **Vishnu Sahu** is concerned, 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 54 bulk liters of illicit liquor has been seized from him which is more than prescribed limit, but looking to the fact that the applicant No. 1 has been arrested on 13.06.2020, case is triable by the Judicial Magistrate First Class, trial is likely to

take some more time and further taking into account the nature and gravity of offence and plea raised by the applicant No. 1 that he has falsely been implicated in case, I am of the opinion that present is the fit case, in which, the applicant No. 1 – Vishnu Sahu should be enlarged on regular bail.

(8) Accordingly, the bail application filed under Section 439 of the Cr.P.C. on behalf of applicant No. 1 – **Vishnu Sahu** 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 No. 1 shall be released on bail, subject to following conditions:

- That, the applicant No. 1 shall furnish a specific undertaking that while on bail, he will not commit any excise offence, otherwise bail granted to him shall be liable to be cancelled and shall co-operate the prosecution during trial.
- That, the accused/applicant No. 1 shall make himself available for interrogation before the concerned Investigating Officer as and when required and the accused/applicant No. 1 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/applicant No. 1 shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

(9) It is made clear that if the applicant No. 1 has 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), he 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 he has not furnished the bail bonds earlier, then he will be required to furnish bail bonds.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-