

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4204 of 2020**

1. Dhaneshwar Bariha S/o Shri Bihari Bariha
Aged About 35 Years Caste- Binjhar, R/o
Village- Savitripur, P.S.- Sankara, and
Tahsil- Pithora, Distt.- Mahasamund,
Chhattisgarh.
2. Duryodhan Bariha S/o Shri Ussat Bariha Aged
About 35 Years Caste- Binjhar, R/o Village-
Savitripur, P.S.- Sankara, and Tahsil-
Pithora, Distt.- Mahasamund, Chhattisgarh.

---- Applicants**(In Jail)****Versus**

- State of Chhattisgarh Through- P.S.- Sankara
Distt. Mahasamund, Chhattisgarh.

---- Respondent

For Applicants :- Mr. Jameel Akhtar Lohani, Advocate.
For State/Respondent :- Mr. Rahul Jha, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****13/07/2020**

1. Proceedings of this matter have been taken
up through video conferencing.

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. 81/2020, registered at Police Station-Sankara, District Mahasamund (CG), for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. Case of the prosecution, in brief, is that, 25.000 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 offences and they have falsely been implicated in crime in question. They are in custody since 11/06/2020.

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

6. I have heard learned counsel appearing for the parties.

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 25.00 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 applicant and they are in custody since 11/06/2020 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.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

1 2015(2) C.G.L.J. 341

It is directed that on furnishing a personal bond in the sum of **Rs.25,000/-** 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:

(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 them 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