

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 4972 of 2020**

1. Naresh Malhotra S/o Banshilal Malhotra, Aged about 30 years, R/o Village Bhilaidadar, Police Station Komakha, Tahsil Baghbahra, District Mahasamund, Chhattisgarh.
2. Mukesh Vishwakarma, S/o Setram Vishwakarma, Aged about 20 years, R/o Village Girna, Police Station Pithora, Tahsil Pithora, District Mahasamund, Chhattisgarh.

---Applicants**Versus**

State of Chhattisgarh, Through Police Station Komakhan, District Mahasamund, Chhattisgarh.

--- Non-applicant/State

For Applicants	:- Mr. Shubhank Tiwari, Advocate
For State	:- Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****06/10/2020**

1. 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. 139/2020, registered at Police Station-Komakhan, District Mahasamund (C.G.), for the offence punishable under Section 34(2) of the Excise Act.

2. Case of the prosecution, in brief, is that, 120 bulk liters of illicit liquor was seized by the police from the present applicants.
3. Learned counsel for the applicants submits that the present applicants have not committed any offence and they have falsely been implicated in crime in question. They are in custody since 14/07/2020.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. 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 120 bulk liters of illicit liquor has been seized from the two applicants which is more than prescribed limit of 5 bulk liters, but looking to the fact that they are in custody since 14/07/2020 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

¹ 2015(2) C.G.L.J. 341

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.

7. 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/-** 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 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.

(iv) If the applicants are found involved in commission of any offence from the date of granting bail, their bail will be canceled without reference to the Bench.

8. 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 the bail bonds.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge