

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5628 of 2020**

1. Ajay Kumar Markhande, S/o Manmohan Markhande, aged about 24 years,
2. Aman @ Bauna, S/o Manmohan Markhande, aged about 22 years,
3. Devkumar @ Dev Manhare, S/o Sadhuram, aged about 22 years,
4. Sonu @ Sannata Ghritlahre, S/o Chovaram, aged about 21 years, all are R/o Sadar Ward Bhatapara, Thana – Bhatapara City, Baloda Bazar, Distt.- Baloda Bazar – Bhatapara (C.G.) (In jail)

---- Applicants**Versus**

State of Chhattisgarh, Through Thana – Bhatapara City, Distt.- Baloda Bazar – Bhatapara (C.G.)

----Non-applicant

For Applicants : Mr. Samir Singh, Advocate.
 For Non-applicant/ State : Mr. R.K. Bhagat, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****18/09/2020**

- (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. 323/2020 registered at Police Station – Bhatapara City, Distt. -Baloda Bazar – Bhatapara (C.G.) for the offence punishable under Section 34(2) of the CG Excise Act.

(3) Case of the prosecution, in brief, is that applicants were found in possession of 16.200 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 10.08.2020 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) 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 16.200 bulk liters of illicit liquor has been seized from them which is more than prescribed limit of 5 liters, but looking to the fact that the applicants have been arrested on 10.08.2020, 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 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 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 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.
- 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.

(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.

Sd/-
(Sanjay K. Agrawal)
Judge

