

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 6087 of 2020**

1. Naresh S/o Bhagirathi Bhardwaj, Aged about 23 years, R/o Hodal (Hariyana).
2. Sanju S/o Kshetrapal Singh, Aged about 28 years, R/o Daulatpur, District Mathura, (U.P.)
3. Charan S/o Baldev, Aged about 30 years, R/o Hodal, District Palval (Hariyana).
4. Bhagat S/o Jawab Singh Jat, Aged about 27 years, R/o Khedli, District Palval, (Hariyana).
5. Sonu Dewangan, S/o Shatrohan Dewangan, Aged about 29 years, R/o Silhati, Police Station Sahaspur Lohara, District Kabirdham, Chhattisgarh.

---Applicants**Versus**

State of Chhattisgarh Through the District
Magistrate, Kabirdham, District Kabirdham,
Chhattisgarh.

--- Non-applicant/State

For Applicants :- Mr. Dharmesh Shrivastava, Advocate
For State :- Mr. Ayaz Naved, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****14/10/2020**

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 five

applicants, who have been arrested in connection with Crime No. 126/2020, registered at Police Station- Sahaspur Lohara, District Kabirdham (C.G.), for the offence punishable under Section 34 (2) of the Excise Act.

3. Case of the prosecution, in brief, is that, 25.920 bulk litres of illicit liquor has been seized from the possession of applicant No. 1 namely Naresh, 51.480 bulk litres from applicant No. 2 namely Sanju, 9 bulk litres from applicant No. 3 namely Charan, 27.36 bulk litres from applicant No. 4 namely Bhagat and 93.24 bulk litres from applicant No. 5 namely Sonu Dewangan, that is, 234 bulk litres in total has been seized from the five applicants.

4. 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 16/08/2020. He further submits that the applicants will not commit any offence in future.

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 234 bulk liters of illicit liquor has been seized from the five applicants which is more than prescribed limit of 5 bulk liters, but looking to the fact that it is the first offence of the applicants and they are in custody since 16/08/2020 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 and they will not commit any crime in future, 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.50,000/-** each with one surety in the like sum to the satisfaction of the concerned Court for

¹ 2015(2) C.G.L.J. 341

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) That, if any of the accused/applicant is found in commission of the excise offence, State would be at liberty to cancel the bail granted to them.

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 the bail bonds.

10.Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet