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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 6846 of 2020**

Narendra Kumar, S/o Taplal Verma, Aged about 46 years, R/o Mahamaya Chowk, Ward No. 04 Champa, District – Balodabazar (C.G.) (In Jail)

---- Applicant**Versus**

State of Chhattisgarh, Through – P.S. - City Kotwali Balodabazar, District – Balodabazar Bhatapara (C.G.)

---- Non-applicant**M.Cr.C. No. 6843 of 2020**

Atul, S/o Pawan Kashyap, aged about 19 years, R/o Village – Saiha, Thana – Palari, District Balodabazar (C.G.) (In Jail)

---- Applicant**Versus**

State of Chhattisgarh, through Police Station City Kotwali, Baloda Bazaar, District Baloda bazaar – Batapara (C.G.)

---- Non-applicant

For Applicants : Mr. A.S. Rajput, Advocate in M.Cr.C. No. 6846 / 2020 & Ms. Supriya Upasane, Advocate in M.Cr.C. No.6843 / 2020

For Non-applicant/State : Mr. Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/11/2020**

(1) Proceedings of these matters have been taken-up for hearing through video conferencing.

(2) Above mentioned two bail applications filed under Section 439 of the Cr.P.C. arise out of a common Crime No. 572/2020 registered at Police Station – City Kotwali, Balodabazar, District Baloda Bazar- Bhatapara (C.G.) for the offence punishable under Sections 457, 380 read with Section 34 of the Indian Penal Code and Section 34 (2) of the C.G. Excise Act, 1915, therefore, they are being heard analogously and decided by this Common Order.

(3) Case of the prosecution, in brief, is that on 2.9.2020 present applicants alongwith two other co-accused persons stolen one camera, one recorder, one CCTV camera, one inverter, one Monitor, 4 LED lights and 18 liters of illicit liquor from the liquor shop owned by the Government by breaking the lock of shutter of the said shop and thereby committed the aforesaid offences.

(4) Learned counsel for the applicants would submit 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 09.09.2020; trial is likely to take some time for its final disposal and no useful purpose would be served by further detaining them in jail, 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 18 bulk liters of illicit

liquor has been seized from them which is more than prescribed limit of five liters, but looking to the fact that the applicants have been arrested on 09.09.2020, case is triable by the Judicial Magistrate First Class, trial is likely to take some more time due to Covid-19 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. 50,000/- 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

D/-

