

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8501 of 2019**

1. Sanjay Verma S/o Shri Dadan Ram Verma Aged About 25 Years, Resident Of Ramnagar, Near Muktidham Bhilai, District Durg, Chhattisgarh.
2. Indrasen Jaiswal S/o Shivrath Jaiswal Aged About 28 Years, Resident Of Ramnagar, Near Muktidham Bhilai, District Durg, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : Station House Officer, Police Station Out Post Pondi Bodla, Civil And Revenue District Kabirdham, Chhattisgarh.

---- Respondent

For Applicants : Mr. S. S. Baghel, Advocate.
 For Respondent/State : Ms. Akshra Amit, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****15/01/2020**

- The accused/applicants have moved this **second bail application** under Section 439 of the Code of Criminal Procedure for releasing them on regular bail during trial in connection with Crime No. 143/2019 registered at Police Station- (Out post Pondi) Bodla, District-Kabirdham (C.G.) for the offence punishable under Section 34(2) of the C.G. Excise Act. The first bail application of the applicants was dismissed as withdrawn with liberty to revive the same after examination of the material witnesses on 27.11.2019 in MCRC No. 7339/2019.

- It is the case of the prosecution that, 621.00 bulk liters of illicit liquor was seized by the police from the custody of applicants and thereby committed the offence.
- Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question. He further submits that the memorandum seizure witnesses have turned hostile the applicants are in custody since 02.09.2019 and the trial is likely to take some time for its final disposal, they may be released on bail.
- On the other hand, counsel for the State opposes the bail application.
- 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 621.00 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 the memorandum seizure witnesses have turned hostile and the applicants are in custody since 02.09.2019, 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.

- Accordingly, the application is allowed. It is directed that on furnishing a personal bond in the sum of Rs. 1,00,000/- 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:
 - That, the applicants shall furnish a specific, undertaking that while on bail, they shall 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 them 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.

**Sd/-
(Rajani Dubey)
Judge**