

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 475 of 2021

1. Hardeep Singh S/o Dalbeer Singh, Aged About 25 Years, R/o Netnagar, Raigarh, Tehsil And District Raigarh (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh, Through S.H.O., Police Post Jutemill, P.S. Kotwali, District Raigarh (C.G.).

---- Respondent

For Applicant : Ms. Indira Tripathi, Advocate.
For Respondent/State : Mr. Anand Verma, Dy. Govt. Advocate.

MCRC No. 2193 of 2021

1. Krishna Nishad S/o Kusharam Nishad, Aged About 45 Years,
 2. Bhujbal Basod S/o Ghasiya Basod, Aged About 48 Years,
- Both are R/o Village Netnagar, Police Station Jutemil Chowki, Tahsil Pusaur, District Raigarh (C.G.).

----Applicants

Versus

2. State Of Chhattisgarh, Through Station House Officer, Police Station City Kotwali, Outpost Jutemil, District Raigarh (C.G.).

---- Respondent

For Applicants : Mr. Ashish Gupta, Advocate.
For Respondent/State : Mr. Anand Verma, Dy. Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Order On Board

15/06/2021

- 1) The matter is heard through Video Conferencing.

- 2) As both the applications arises out of the same crime number they are being disposed of by this common order.
- 3) Applicants Krishna Nishad & Bhujbal Basod have filed First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of bail as they are is in jail since 28/02/2021 in connection with Crime No. 294/2021, registered at Police Station City Kotwali, Outpost Jutemil, District Raigarh (C.G.) for the offence under Sections 34(2) & 59(A) of the Excise Act.
- 4) Applicant Hardeep Singh has filed First Bail Application under Section 438 of Code of Criminal Procedure, 1973 for grant of anticipatory bail as he is apprehending his arrest in connection with aforesaid crime number for the offence under Sections 34(2) & 59(A) of the Excise Act.
- 5) Case of the prosecution, in brief is that on 28/02/2021 the Police party upon receiving secret information went to the indicated place i.e. village Netnagar, near Kelo river and found the applicants Krishna Nishad & Bhujbal Basod manufacturing liquor. From the possession of Krishna Nishad & Bhujbal Basod, **110 Ltr. and 145 Ltr.** respectively country made liquor was seized. In their memorandum statements, these applicants stated that they were manufacturing liquor at the instance of applicant Hardeep Singh who trades in liquor
- 6) Mr. Ashish Gupta, Counsel for the applicants in **MCRC No. 2193/2021** submits that the applicants are innocent persons and have been falsely implicated in this case. He further submits that charge sheet has been filed and trial is likely to take some time for its disposal. The applicants have no criminal antecedents and there is no apprehension of their absconding or tampering with the prosecution evidence/witness. Therefore, the applicants be released on bail by this Court.
- 7) Ms. Indira Tripathi, Counsel for the applicant in **MCRCA No.**

475/2021 submits that the applicant is innocent person and has been falsely implicated in this case. She submits that no liquor or any manufacturing equipment has been seized from the possession of the applicant. He has been implicated in this case merely on the memorandum of the co-accused persons. Reliance has been placed on the decisions of the Co-ordinate Bench of this Court in the matter of Lakhan Sahu V/s. State of Chhattisgarh, reported in (2007) CGLJ 8, Sonu @ Shershab Katti V/s. State of Chhattisgarh, MCRC(A) No. 352/2016 order dated 25/04/2016 and Aashish Gupta V/s State of Chhattisgarh, MCRC(A) No. 436/2016 order dated 10/05/2016.

- 8) On the other hand, learned counsel for the respondent/State opposes the bail applications. He submits that the applicants have no criminal antecedent.
- 9) Heard learned counsel for the parties.
- 10) **MCRC No. 2193/2021** : Considering the facts and circumstances of the case, the quantity of illicit liquor seized from the applicants, their detention period, the fact that the applicants have no criminal antecedents and there is no apprehension of the applicants tampering with the evidence or absconding as admitted by both the counsel, charge sheet has already been filed, and that conclusion of trial may take some time, without commenting anything on merits the application is allowed.
- 11) **MCRCA No. 475/2021** : Considering the facts and circumstances of the case, the fact that no liquor or manufacturing equipment has been seized from the applicant Hardeep Singh, he has been made accused only on the basis of memorandum statements of the co-accused, keeping in view the decisions of the Co-ordinate Bench of this Court in the identical matters, this Court is of the opinion that present is a fit case for grant of anticipatory bail to the applicant.
- 12) Accordingly, both the applications are **allowed**.

- 13) In the event of **each** of the applicants **Krishna Nishad & Bhujbal Basod** executing a personal bond for a sum of **Rs. 2 Lakh** with two sureties of Rs. 1 Lakh each to the satisfaction of the concerned Trial Court, they shall be released on bail.
- 14) Likewise, in the event of arrest of applicant Hardeep Singh in connection with aforesaid offence, he shall be released on bail by the arresting officer on his furnishing a personal bond for a sum of **Rs. 2 Lakh** with two sureties of Rs. 1 Lakh each to the satisfaction of the arresting officer.
- 15) The applicants shall be released on bail on the following conditions:-
 - i. they 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 from disclosing such fact to the Court,
 - ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial,
 - iii. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
 - iv. they shall not involve themselves in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

-Sd/-
(Gautam Chourdiya)
Judge