

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5027 of 2021

1. Shyamlal Chouhan S/o Dulare Chouhan, Aged About 50 Years,
2. Josef Hiyal S/o Mahendra Hiyal, Aged About 32 Years,

R/o Towar Para, Ward No. 8, Jhilmila, Saraipali, Thana And Tahsil
Saraipali, District Mahasamund (C.G.).

---- Applicants

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station
Saraipali, District Mahasamund (C.G.).

---- Non-applicant

For Applicants	: Mr. Vikash Pradhan, Advocate.
For Non-Applicant/State	: Mr. C.B. Kesharwani, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

23/08/2021

- 1) The matter is heard through Video Conferencing.
- 2) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 31/05/2021 in connection with Crime No. 220/2021 registered at Police Station Saraipali, District Mahasamund (C.G.) for the offence punishable under Section 34(2) of Chhattisgarh Excise Act.
- 3) Allegation against the applicants is that they were found in illegal jointly possession of **15 bulk Ltrs.** of country made liquor (*Mahuwa*).
- 4) Learned counsel for the applicants submit that the applicants are innocent and have been falsely implicated in the case. The applicants were arrested on 31/05/2021. He also submits that there is no apprehension of the applicants tampering with the evidence or absconding and conclusion of trial is likely to take some time for its disposal. Therefore, the applicants be released on bail by this Court.
- 5) On the other hand, learned counsel for the State opposes the bail

application. However, he submits that the applicant No.1 Shyamlal Chouhan has 01 criminal antecedent under Section 34(2) of Excise Act whereas applicant No. 2 Josef Hiyal has no criminal antecedents.

6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the detention period of the applicants, who are 50 years and 32 years respectively, that there is no apprehension of the applicants tampering with the evidence or absconding as admitted by both the Counsel, offence is triable by Judicial Magistrate First Class and that conclusion of trial may take some time, the application is **allowed**. It is directed that in the event of **each** of the applicants executing a personal **bond** for a sum of **Rs. 2,00,000/-** with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial Court, they 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 appear before the trial Court on each and every date given to them by the said Court till disposal of the trial,
- iv. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- v. 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