

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5079 of 2021

1. Khemlal Sinha (Wrongly Mention Applicants Surname As Sinhaa) S/o Kunjilal Sinha, Aged About 25 Years, R/o Village Bhedi, P.S. Dondilohara, District Balod (C.G.).
2. Manish Kumar Sahu, S/o Ramdas Sahu, Aged About 25 Years, R/o Dondilohara, P.S. Dondilohara, District Balod (C.G.).

---- Applicants

Versus

1. State Of Chhattisgarh, Though Out Post Sanjari, P.S. Dondilohara, District Balod (C.G.).

---- Non-applicant

For Applicants	: Mr. Hemant Gupta, 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 10/06/2021 in connection with Crime No. 103/2021 registered at Out Post Sanjari, P.S. Dondilohara, District Balod (C.G.) for the offence punishable under Section 34(2) of Chhattisgarh Excise Act.
- 3) Allegation against the applicants is that applicant No. 1 was found in illegal possession of **26.865 bulk Ltrs.** and applicant No. 2 was found in illegal possession **13.500 bulk Ltrs.** of liquor.
- 4) Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the case. He submits that in the year 2018 the applicant Manish Kumar Sahu was charged with offence under Section 394/34 of IPC but he has been acquitted of the said charge by the Trial Court. The applicants were

arrested on 10/06/2021. He also submits that charge sheet has already been filed, 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.

- 5) On the other hand, learned counsel for the State opposes the bail application and submits that the applicants are habitual offender. In the past, offence under Section 34(1) of the Excise Act bearing Crime No. 77/2021 and under Section 379 of Cr.P.C. bearing Crime No. 215/2020 were registered against applicant No. 1 Khemlal Sinha. However, he does not dispute that the applicant No. 2 Manish Kumar Sahu has been acquitted of the offence bearing Crime No. 134/2018 under Section 394/34 of IPC by the Trial Court.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the quantity of illicit liquor seized from the applicants, the detention period of the applicants who are 25 years old, the fact 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 due to COVID-19 Pandemic 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**

Chandrakant