

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8646 of 2020**

- Rohit Bagdi S/o Kamla Prasad Bagdi Aged About 26 Years, Caste Satnami, Residence Of LIG 61, New Borsi, Tahsil And District Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Station House Office, Police Station (Police Chowki Padamnabhpur) Durg, District Durg, Chhattisgarh.

---- Respondent**MCRC No. 9084 of 2020**

1. Amit Mishra S/o Rajendra Prasad Mishra Aged About 25 Years, R/o LIG 251 New Borsi Durg Chowki Padmanabhpur, Tehsil And District Durg, Chhattisgarh.
2. Abhishek Chouhan S/o Avdhesh Chouhan Aged About 22 Years, R/o Supela Bhilai, Bhilai Tehsil And District Durg, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : District Magistrate District Durg, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. S. S. Baghel, Adv. in MCRC No. 8646/2020. Mr. Avinash Chand Sahu, Adv. in MCRC No. 9084/2020.
For Respondent/State	:	Mr. Devesh Verma, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****13/04/2021**

The matter are heard through video conferencing.

1. As both MCRCs arise out of same crime number, they are being heard and disposed of by this common order.
2. The accused/applicants have moved these first bail applications under Section 439 of the Code of Criminal Procedure for

releasing them on regular bail during trial in connection with Crime No. 336/2020 registered at Police Station - (Police Chowki Padamnabhpur) Durg, District - Durg (C.G.) for the offence punishable under Section 34(2) of the C.G. Excise Act.

3. It is the case of the prosecution that, 1442.800 bulk liters of illicit country made liquor was seized by the police from the joint possession of the present applicants and thereby committed the offence.
4. Learned counsels for the applicants submit that the applicants have been falsely implicated in the crime in question. They further submit that the applicants have been arrested only on the basis of doubt and they have not been arrested from the place of incident. They also submit that as the applicants are in custody since 28.05.2020, and the trial is likely to take some time for its final disposal, they may be released on bail.
5. On the other hand, counsel for the State opposes the bail application and submits that the applicants have criminal antecedents.
6. 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 1442.800 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 applicants are in custody since 28.05.2020, 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.

7. Accordingly, the applications are 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 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.

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