

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 9413 of 2020**

1. Sunil Kumar S/o Dharmjeet Singh Aged About 38 Years Occupation Business, R/o Village Gupta Colony, Near Shahbad Dairy, Rohni, New Delhi (Dilli)
2. Narendra Singh S/o Ranbir Singh Aged About 37 Years Occupation Vehicle Driver, R/o Pilani Bangoli, Tahsil Surajgarh Rajasthan

---- Applicants**Versus**

- State of Chhattisgarh through the Station House Officer, Police Station Pondi, District Koriya Chhattisgarh

---- Non-applicant

For Applicants : Mr. Anil Gulati, Advocate.

For State : Mr. D.K. Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Gautam Chourdiya**Order on Board****04-02-2021**

1. The applicants have preferred this first bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as they are in jail since 18-11-2020 in connection with Crime No. 141 of 2020 registered at Police Station Pondi, District Koriya (CG) for the offence punishable under Section 34(1-A)(2) and 59(A) of the CG Excise Act.
2. The case of the prosecution, in brief, is that the Police have received the secrete information through informant that the Truck container bearing registration No. UP-14-JT 1225 was having huge quantity of illicit liquor. On such information being received,

Police party conducted raid and in the said raid, it is alleged by the prosecution that the applicant No.1 is the owner of the container and applicant No.2 is the driver of the said vehicle. The said vehicle was seized in which 2803 bulk liters of illicit liquor was found.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case, false seizure has been prepared by the Police in order to rope the applicants in a false criminal case. He would further submit that the seized vehicle, in which 2803 bulk liters of liquor was found, does not belong to the present applicants. Applicant No.1 is the resident of Shahbad Dairy, New Delhi, he is running the business of Online Services Consultant Rohtak, Haryana and he is authorized by the online services consultant to purchase the Coal in the State of Chhattisgarh and for this very purpose, the applicants visited the State of Chhattisgarh for purchasing free sale coal and stayed in the lodge of Haldibadi. He would further submit that the applicant No.1 is not the owner of the alleged container from which huge quantity of liquor was seized. He would further submit that the said container was parked at Nagpur, PS Pondi and the driver of the truck container locked the container from the outside and subsequently the driver has been arrested and name of the driver of the said vehicle is Deepak Lakhera and on his memorandum statement, present applicants have been implicated for

commission of the alleged offence. He would further submit that except present one, no other criminal case has been registered against the applicants, they are in custody from 18-11-2020, conclusion of the trial may take for some time for its final disposal, therefore, they may be released on bail.

4. On the other hand, learned State counsel opposes the bail application.
5. In compliance of the order dated 29-1-2021 passed by this court, Mr. Subal Singh, Asst. Sub Inspector, Police Station Pondi, District Koriya, who is the Investigating Officer in this case, is present before this court and submits that no any document was seized regarding ownership of the seized vehicle.
6. I have heard learned counsel for the parties and perused the case diary.
7. Perusal of the case diary reveals that on the basis of Dehati Nalsi one container bearing registration No. UP-14-JT 1225 was seized near Indian Oil Petrol Pump, Nagpur from open place and Dehati Nalsi was lodged by Police Help Centre, Nagpur, PS Pondi, District Koriya. During investigation, it was found that as per memorandum of accused, the liquor belongs to Sunil Kumar who is applicant No.1 and Deepak Lakhera, driver of the vehicle. As per document collected by the prosecution, the vehicle which was seized from open place does not belong to the present applicants and no any document was seized from the present

applicants regarding ownership of the vehicle in which 2803 bulk liters of liquor was found. No document regarding ownership of the vehicle was produced by the Investigating Officer. Present applicants denied that they are owner or driver of the seized vehicle.

8. Considering the facts and circumstances of the case, the fact that no document was seized from the present applicants regarding ownership of the vehicle, detention period of the applicants, 97 bulk liters of liquor was seized from the possession of applicant No.1 whereas no liquor was seized from the possession of applicant No.2, charge sheet has been filed, there is no likelihood of the applicants tampering with the evidence or absconding and the applicants have no other criminal antecedents as admitted by both the parties and that conclusion of trial may take some time, without commenting anything on merits of the case, I am of the opinion that it is a fit case to grant bail to the applicants.

9. Accordingly, the application is allowed and it is directed that the applicants shall be released on bail on each of them 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 appear before the trial Court on each and every date given by the said trial court, till disposal of the trial. The applicants are being granted 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 them 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 not involve themselves in any offence of similar nature in future or else this order granting bail to the applicants shall automatically stand cancelled without further reference to this court, and
- v. they shall be released on bail after submitting valid documents regarding their identity such as Aadhar Card, Pan card, driving licence or any other documents.

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

Sd/-

(Gautam Chourdiya)
Judge

Raju