

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9091 of 2021

1. Sachin Nishad S/o Pratap Nishad Aged About 30 Years.
2. Bhagwati Das Sahu S/o Shri Kushal Das Sahu Aged About 40 Years.
Both are R/o Sadakchirchari, Police Station Bagnadi, Tahsil and District Rajnandgaon, Chhattisgarh.
3. Kedar Singh S/o Ghanshyam Singh Aged About 45 Years, R/o. Zone-2, Sector-11, Khursipar, Bhilai, District Durg, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh Through Station House Office, Police Station Excise Circle Khairagarh, District Rajnandgaon, Chhattisgarh.

--- Respondent

For Applicant	:	Mr. NK Mehta, Advocate.
For State	:	Mr. Vaibhav Singh, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

16/12/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who are in custody in connection with Crime No.36/2021, registered at Excise Circle Khairagarh, District Rajnandgaon, (C.G.), for commission of offence punishable under Sections 34(2), 36, 59-A of CG Excise Act.
2. Case of prosecution is that on 01.11.2021 official of Excise Department while on patrolling duty received secret information that some persons are in illegal possession of liquor at village chirchari, Khairagarh. Upon receiving information, they reached on spot, during search, seized 302.400 bulk litres of foreign liquor loaded on Tractor Trolley bearing registration No.CG/08/AP/6706 at Kothar owned by applicant No.2. Based on seizure of liquor, aforementioned crime was registered against applicants and they were arrested.
3. Learned counsel for applicants submit that applicants have been falsely implicated in this case. Alleged liquor was not seized from exclusive and conscious possession of applicants but from open place. There is no criminal antecedent against applicants of similar nature in recent past. Tractor Trolley is not registered in name of any of applicants. He further submits that father of

applicant No.2 suffered brain stroke resulting into brainstorm, which is evident from medical prescription and MRI Scan report filed as Annexure A-2 along-with covering memo. There is no any other criminal antecedent against applicant No.3. Applicants are in jail since 01.11.2021, hence, they may be released on bail.

4. Learned State Counsel opposes the submissions of learned counsel for applicant and submits that during course of search, huge quantity of foreign liquor loaded in a Tractor Trolley was seized from barn of applicant No.2, hence, they are not entitled for grant of regular bail. However on putting specific query to State Counsel with regard to any criminal antecedent against applicants, after going through case diary, he submits that there are three previous antecedents against applicant No.1 which are of the year 2009, 2010 and 2016, out of which offence under Excise Act is of the year 2009. Criminal antecedents against applicant No.2 are of the year 2014, 2015, out of which, one is of preventive nature and other two are under IPC. There is no mention of any of criminal antecedent against applicant No.3 in case diary. There is no document available in any case diary relating to ownership of Tractor Trolley.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of case, nature of allegations, place of seizure from where alleged illicit liquor is said to be seized, submissions of learned counsel for parties that applicants are not having any criminal antecedent of similar nature of recent past, without commenting anything on merits of the case, I am inclined to allow this application.
7. Accordingly, bail application is allowed. It is directed that applicant shall be released on regular bail, on their furnishing a bail bond in sum of **Rs.25,000/-** each with one surety in the like sum to the satisfaction of the Court concerned on the conditions that-
 - a) Applicants shall appear before Trial Court regularly on each and every date, unless exempted from appearance.

- b) They shall not, in any manner, tamper with the prosecution witnesses.
- c) If they are found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-