

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9376 of 2021

Shailendra Jaiswal @ Bholu S/o Mohar Lal Jaiswal, Aged About 30 Years, R/o-
 Village- Rewatpur, P.S.- Rajpur, District- Balrampur- Ramanujganj, C.G.

---- Applicant

Versus

State of Chhattisgarh Through - S.H.O, Police Station- Raghunathnagar
 District- Balrampur, Ramanujganj, C.G.

---- Respondent

MCRC No. 9868 of 2021

Sonu Prasad Yadav S/o Rameshwar Yadav Aged About 30 Years, R/o Vill.
 Dulduli, Post and Thana Rumkola, District Soorajpur, C.G.

---- Applicant

Versus

State of Chhattisgarh Through - SHO, PS Raghunath Nagar District- Balrampur
 - Ramanujganj (Chhattisgarh).

--- Respondent

For Applicants	:	Mr. Puskar Sinha & Mr. Praveen Soni, Advocate.
For State	:	Mr. Sudhir Sahu, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

17/12/2021

1. As above two bail applications arise out of same crime number, hence they are being disposed off by this common order.
2. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who have been arrested in connection with Crime No.167/2021, registered at Police Station -Raghunath Nagar District- Balrampur – Ramanujganj, (C.G.), for commission of offence punishable under Sections 332, 427 of IPC and Section 34(2) of CG Excise Act.
3. Case of prosecution is that on 21.10.2021 Police received secret information that some persons were transporting illicit liquor on Pickup vehicle bearing registration No.UP/64/BT/2064. Upon receiving information, Police intercepted the vehicle near Petrol Pump at village Kamalpur. When Police tried to stop the vehicle, driver of vehicle did not stop the vehicle and run away. After running for some distance, vehicle was parked, driver ran away leaving vehicle unmanned. Police during course of search, seized 36 bulk litres of foreign

liquor from vehicle. Based on seizure of liquor, offence was registered against unknown persons. During course of investigation, Police recorded statement of one Abdul Muttallif (registered owner of vehicle) and applicants were arrested.

4. Learned counsel for applicants submits that applicants have been falsely implicated in instant crime. Illicit liquor was not seizure from exclusive possession of applicants. They were arrested only on the basis of statement of Abdul Mutallif. Offence is triable by Magistrate and trial may take some time for its conclusion, hence they may be released on regular bail.
5. Learned State Counsel opposes the submission of learned counsel for applicants and submits that when Police tried to stop the vehicle, driver of vehicle did not stop vehicle and ran away. After running to some distance, applicants stopped the vehicle and ran away from spot in forest area leaving vehicle unman. Owner of vehicle Abdul Muttallif has clearly stated that it is applicants who is on the vehicle on date of incident, hence, there is prima facie involvement of applicants in commission of crime. They are not entitled for grant of 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 in case diary one previous antecedent is mention against applicant (Shailendra Jaiswal) for commission of offence under Section 34(2) of Excise Act. No previous antecedent is mention against applicant (Sonu Yadav) in case diary.
6. Heard learned counsel for the parties.
7. Considering the entire facts and circumstances of the case, nature of allegation, submission of learned counsel for parties, the fact that applicants were not arrested from spot, they have been made accused only on the basis of statement of Abdul Mutallif, offence to be triable by Magistrate, without commenting anything on merits of the case, I am inclined to allow bail application.
8. Accordingly, bail application is allowed. It is directed that applicants shall be released on regular bail, on their furnishing a bail bond in sum of **Rs.25,000/-**

each with one surety in like sum to satisfaction of concerned Court 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/-