

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9429 of 2021

Nikhil Mishra S/o Bharat Mishra, Aged About 22 Years, R/o Ward No. 5 Purani Basti Kotma District Anuppur, (M.P.).

---- Applicant

Versus

State of Chhattisgarh Through S. H. O. Police Station Pendra District Gaurela Pendra Marwahi, Chhattisgarh.

---- Respondent

MCRC No. 9458 of 2021

1. Suraj Kol S/o Rupa Kol Aged About 23 Years, R/o Ward No. 14 Bhalumada, Police Station Kotma, District Anuppur, Madhya Pradesh.
2. Prakash Kol S/o Kamal Prasad Kol, Aged About 24 Years, R/o Thodha Police Station Kotma, District Anuppur, Madhya Pradesh.

---- Applicant

Versus

State of Chhattisgarh Through S.H.O. Police Station Pendra, District Gaurela Pendra Marwahi, Chhattisgarh.

--- Respondent

For Applicants	: Ms. Priya Sharma, Advocate.
For State	: Mr. Shrikant Kaushik, 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.290/2021, registered at Police Station -Pendra, District Gaurela Pendra Marwahi, (C.G.), for commission of offence punishable under Sections 34(2), 59 -A of CG Excise Act.
3. Case of prosecution is that Police received secret information that applicants were transporting illicit liquor on Car bearing registration No.MP/65/C/4311. Upon receiving information, Police intercepted the Car, during course of search, seized 22 bulk litres handmade mahua liquor from possession of applicants. Based on seizure of liquor, aforementioned crime was registered against applicants and they were arrested.

4. Learned counsel for applicants submits that applicants have been falsely implicated in instant crime. Alleged seizure was not from conscious possession of applicants but from road side. There is no any other criminal antecedent against applicants. Offence is triable by Magistrate and trial may take some time for its conclusion. Applicants are in jail since 14.11.2021, hence they may be released on regular bail.
 5. Learned State Counsel opposes the submission of learned counsel for applicants and submits that during course of search, applicants were found in illegal possession of handmade mahua liquor, hence, they are not entitled for grant of bail. However on putting specific query to State Counsel with regard to any criminal antecedent against applicants, he after going through case diary submits that in case diary no criminal antecedent of applicants is available as they are resident of Madhya Pradesh.
 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 applicant that there is no other criminal antecedent against applicants, offence to be triable by Magistrate, tender age of applicants, period of pre-trial detention of applicants since 14.11.2021, 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.50,000/-** with one surety each 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/-