

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9596 of 2021

1. Kalimulla Khan S/o Makbul Khan, Aged About 40 Years, R/o Raja Talab, Pendritaral Raipur, Tehsil and District Raipur, Chhattisgarh.
2. Dwarika Verma S/o Roopchand Verma, Aged about 22 years, R/o.Ward No.11, South Dabra para Bhilai, Tah Patan, District Durg, Chhattisgarh.

---- **Applicant**

Versus

State of Chhattisgarh Through Excise Circle-1, Bhilai -3, District Durg Chhattisgarh.

--- **Respondent**

For Applicant	: Ms.Priya Sharma, Advocate.
For State	: Mr. Shrikant Kaushik, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

06/12/2021

1. Heard.
2. Admit.
3. Learned State Counsel submits that case diary is available.
4. With the consent of parties, matter is heard finally.
5. 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.78/2021, registered at Police Station- Excise Circle-1, Bhilai -3, District Durg, (C.G.), for commission of offence punishable under Sections 34(2), 59 -A of CG Excise Act.
6. Case of prosecution is that Excise Department received secret information that some persons are transporting illicit liquor on motorcycle. Based upon information, one motorcycle was intercepted on which applicants were travelling, during course of search, officials of Excise Department seized 25.92 bulk litres of foreign liquor from applicants. Based on seizure, aforementioned crime is registered against applicants and they were arrested.
7. Learned counsel for applicants submits that applicants have been falsely implicated in instant crime. He submits that joint recovery has been shown by

Excise Department from possession of applicants. Applicants are not having any criminal antecedents. Offence is triable by Magistrate and trial may take some time for its conclusion. Applicants are in jail since 12.11.2021, hence, they may be released on bail.

8. Learned State Counsel opposes the submission made by learned counsel for the applicants and submits that during course of search official of Excise Department recovered 25.92 bulk liters of foreign liquor from joint possession of applicants. Hence, they are not entitled for grant of bail. However on putting specific query to learned State Counsel with regard to any criminal antecedent against applicants, he after going through case diary submits that in case diary there is no mention of any criminal antecedents against applicants.

9. Heard learned counsel for the parties.

10. Considering the entire facts and circumstances of the case, nature of allegation, place of alleged seizure, and the fact that there is no any other criminal antecedents against applicants, offence to be triable by Judicial Magistrate First Class, without commenting anything on merits of the case, I am inclined to allow bail application.

11. 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/-** with one surety each in the like sum to the satisfaction of 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/-