

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 9708 of 2021

1. Kanhaiya Sidar S/o Shri Ramgovind Sidar Aged About 24 Years, R/o Village Balpur, Tahsil and Police Station Chandrapur and District Janjgir Champa Chhattisgarh.
2. Suraj Nishad S/o Shri Ramchandra Nishad Aged About 21 Years R/o Village Taparda, Police Station and Tahsil Pussour, District Raigarh Chhattisgarh

---- Applicants

Versus

State of Chhattisgarh Through Station House Officer, Police Station & Tah-Pussour, District Raigarh, Chhattisgarh.

--- Respondent

For Applicants	: Mr. Abhishek Saraf, Advocate.
For State	: Ms. Smriti Shrivastava, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

21/12/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who have been arrested in connection with Crime No.263/2021, registered at Police Station – Pussour, District Raigarh, (C.G.), for commission of offence punishable under Sections 34(2), 59 -A of CG Excise Act.
2. Case of prosecution is that on 19.11.2021 Police received secret information that some persons are manufacturing illicit liquor at village Taparda. Upon receiving information, they reached on spot, during search, seized 80 bulk litres of hand made Mahua liquor from applicant No.1 and 100 bulk litres from applicant No.2. Based on seizure of liquor, applicants were arrested in aforementioned crime.
3. Learned counsel for applicants submits that applicants are villagers and went to their agricultural field for work, they have been falsely implicated in this case. Alleged seizure of liquor was not from conscious possession of applicants but from open place. There is no other criminal antecedent against applicants, offence is triable by Magistrate, conclusion of trial may take some time. Hence, applicants may be released on bail.

4. Learned State Counsel opposes the submissions of learned counsel for applicants and submits that 180 bulk litres of handmade Mahua liquor was seized from applicants, hence, they are not entitled for grant of regular bail. However on putting specific query to State Counsel with regard to criminal antecedent against applicants, after going through case diary, she submits that there is no mention of any criminal antecedents against applicants in case diary.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of case, nature of allegation, submission of learned counsel for parties that there is no other criminal antecedent against applicants, place of seizure which is an open place, offence to be triable by Magistrate, without commenting anything on merits of the case, I am inclined to allow bail application.
7. 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/-