

BLAPL No.15 of 2023

Sl. No.02 Dt. 19.01.2023:-

The present order will dispose of the bail application filed by the petitioners, who are inside custody in connection with Rairangpur Town P.S. case No.14/2023 corresponding to C.T. case No.61 of 2023 pending in the file of the learned S.D.J.M., Rairangpur and has been forwarded to the Court for commission of an offence punishable U/s.52(a)(i) of the Odisha Excise Act. Further during the hearing of the bail application, the learned counsel for the petitioners filed a memo stating therein that no other bail application of the present petitioners in connection with the present case, is pending before any other Court of law. The said memo is kept on record.

2. The learned counsel for the petitioners submits that *prima facie* case U/s. 52(a) (i) of the Odisha Excise Act is not made out against them. Accordingly, they may be released on bail.

3. On the other hand the learned Addl. P.P vehemently objected the bail application.

4. Perused the LCR, the F.I.R. and other documents available in the case record. In the F.I.R., it has been alleged that while the informant along with staffs were performing patrolling duty, he received reliable informant that the present petitioners are proceeding to Jamda side in a motor cycle being loaded with black colour motor-tube. On suspicion, the petitioners were detained at village Halda and from their possession 40 liters of Mahua liquor were recovered and seized.

5. In course of investigation, the present petitioners were arrested as they were possessing mahua liquor in the vehicle. Be that as it may, the offence U/s.52(a)(i) of the Odisha Excise Act is punishable with imprisonment up to seven years and triable by Magistrate. There is nothing on record to show that the I.O. had served any notice U/Sec. 41-A of the Cr.P.C before arresting both the petitioners.

6. There is nothing on record to show that if the petitioners are released on bail, will abscond or will tamper with the evidence. The excise materials

involved in the present case have already been seized and at present is in the possession of the investigating agency. Even otherwise almost all the witnesses cited by the prosecution are official witnesses and there is least chance of their tampering. There is nothing on record to show that the detention of the petitioners is in any way required for their custodial interrogation in the instant case.

7. Therefore, taking into consideration the nature of allegations made and the fact that the offences are triable by a Magistrate and is punishable with less than seven years of imprisonment, I am inclined to release the petitioners on bail. Accordingly, the application for bail filed by the petitioners noted above stands *allowed*.

8. Let both the petitioners named above be released on bail on each of them furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand only) with one solvent surety each for the like amount to the satisfaction of the learned S.D.J.M., Rairangpur. Apart from the above, the petitioners be released on bail with the following further conditions:

- I. They shall not indulge themselves in any similar or any other criminal activities while on bail;
- II. They shall not influence, terrorize or threaten the prosecution witnesses directly or indirectly and shall not try to tamper with the evidence of the prosecution witnesses in any manner whatsoever;
- III. They shall co-operate with the investigation and shall appear before the I.O. as and when noticed.
- IV. They shall appear before the Court on each and every date to which the trial is fixed.

Violation of any of the above conditions shall entail cancellation of the bail. Send back the L.C.R along with a copy of this order to the learned lower Court forthwith.

Dictated.

Adll. Sessions Judge, Rairangpur.