

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 226 of 2016

Bhupendra Singh, son of Hari Singh, aged about 40 years, resident of village Rani Talab, Police Station Chichola, District Rajnandgaon (C.G).

... **Applicant**

Vs.

State of Chhattisgarh, through the Station House Officer, Police Station Chhuriya, Distt. Rajnandgaon (C.G).

Respondent

For the applicant	:	Mr. Goutam Khetrapal, Advocate.
For the Respondent	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21.03.2016

1. Apprehending arrest in connection with Crime No.29 of 2016 registered at Police Station Chhuriya, District Rajnandgaon (C.G) for the offences punishable under section 34 (2) of Chhattisgarh Excise Act, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, on information being received on 13.02.2016 that in the house of applicant which is under the progress of construction illicit liquor has been kept for sale, a raid was conducted by the police and 5.940 bulk litres of liquor was recovered from the said premises of the applicant.
3. Learned counsel for the applicant submits that that the construction of house of applicant was under progress; neither the doors nor the windows have been attached to the house and it is an open area wherein someone might have kept the liquor for which the applicant cannot be held liable and even the applicant was not present on the spot while the seizure was made. He further submits that the photographs of house would

show that it is in the stage of construction without there being any doors and windows attached to it and under the circumstances, no case would be made out against this applicant.

4. Per contra, learned State Counsel opposes the prayer for grant of bail.
5. Perused the case diary and photographs. According to the statement of witness, the house is under construction when the recovery was made. Admittedly the applicant appears to be not present at the place of seizure.
6. The photographs would clearly show that neither the doors nor the windows have been attached and only the frame work of the house has been completed. Taking into consideration such fact that it is an open place when the seizure has been made, it cannot be directly attributed to the applicant that the liquor was kept by him.
7. Considering the nature of recovery and the place wherefrom it was recovered, prima facie case is not made out against the applicant. Consequently, I am inclined to extend the benefit of section 438 Cr.P.C.
8. Accordingly, this application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer.

The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any police officer;

- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

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