

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 373 of 2016

1. Kalimullah, aged about 30 years, S/o. Shri Nayeemullah, R/o. Plot No.804, Flat No.204, Jameel Art, Sakkardara, Nagpur (Maharashtra)

----Applicant

Versus

1. State of Chhattisgarh, Through : the District Magistrate, Rajnandgaon (C.G.)

---- Respondent

For Applicant	: Mr. Vivek Bhakta, Advocate
For Respondent/State	: Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/05/2016

1. Apprehending arrest in connection with Crime No.243/2015 registered at Police Station- Somni, Rajnandgaon District – Rajnandgaon (C.G.), for offence punishable under Section 34 (2) of the Chhattisgarh Excise Act, and Sections 130/177, 66/192, 46/192, 39/192 of the Motor Vehicle Act, 1988 and Section 186, 427 and 353 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, on raid being conducted on 23.11.2015 from vehicle bearing No. MH-31-CN-9527, 86.400 liters liquor was seized from the possession of Amit Mishra, Rohit and Nitin Saraswat and the car was registered in the name of the applicant. Thereby the offence has been committed.
3. Learned counsel for the applicant would submit that the applicant has already parted the possession of the car and it was sold to one Aqueel Anwar according to the document Annexure A/1 and he was not in hold of the possession of the car, since the registration

of the car was not transferred in favour of the new purchaser, the applicant has been inculpated in the crime. He further submits that seizure has already been made, therefore, because of the fact that the vehicle was in the name of the applicant, the applicant can not be inculpated in the crime, therefore, the counsel prays that the applicant may be extended the benefit of anticipatory bail.

4. Per contra, the State counsel opposes the prayer for grant of anticipatory bail .
5. Perused the case diary and the documents. Admittedly, the seizure was made from Amit Mishra, Nitin Saraswat and Rohit and it is not the case of the prosecution that the applicant was present. Subsequently it was revealed that car was registered in the name of the applicant.
6. The transfer of the car which is by agreement was directed to be verified, however, it could not be verified as per the report of the prosecution, the notary stated that he could not confirm as the notary register is not available with him at present. Considering the fact that seizure was made from three person and the applicant was not present on the spot, I am inclined to extend benefit of anticipatory bail to the applicant as the custodial interrogation of the applicant may not be required in this case.
7. Accordingly, the anticipatory bail 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 executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge