

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 353 of 2016

1. Saya Gouli, S/o. Shri Tarachand Gouli, aged about 36 years, R/o. Budhwaripara Ward No.14 Dongargarh, Thana & Tahsil – Dongargarh, Civil and Revenue District – Rajnandgaon (C.G.) (wrongly mentioned Budhwarapara)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer, Police Station, Dongargarh, District – Rajnandgaon (C.G.)

---- Respondent

For Applicant	: Mr. Sunil Sahu, Advocate
For Respondent/State	: Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/04/2016

1. Apprehending arrest in connection with Crime No.121/2016 registered at Police Station- Dongargarh, District – Rajnandgaon (C.G.), for offence punishable under Section 34 (2) of the Chhattisgarh Excise Act, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, on raid being conducted on 15.03.2016 at village-Dongargarh, the applicant, who was selling the liquor alongwith one Shakeel Khan, Shakeel Khan was apprehended with 7.20 liters of liquor and the applicant fled away from the scene. Thereby the offence has been committed.
3. Learned counsel for the applicant would submit that entire seizure was made from the courtyard of the Shakeel Khan from whom the seizure has already been made and even if the presence of the

applicant is admitted, the case would fall under Section 36-B of C.G. Excise Act. He further submits that the applicant only apprehended on the oral statement of Shakeel Khan, therefore, submits that only presence of the applicant on the spot can not be inculpated under Section 34(2) of C.G. Excise Act, thereby prima-facie no case can be attributed against this applicant. Therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra learned State counsel opposes the application for grant of anticipatory bail.
5. Perused the charge-sheet and the documents. The charge-sheet shows that entire seizure was made from Shakeel Khan from his courtyard (Badi). It is stated in the case diary that the applicant fled away from the scene, therefore, entire seizure having been made from Shakeel Khan only by presence of the applicant, who fled away after spotting the police as appears that no offence has been attributed against this applicant under Section 34(2) of the C.G. Excise Act. Consequently, the bar of Section 59 of C.G. Excise Act would not come to play as prima-facie no case is made out against this applicant. Considering the case diary and the documents this Court is inclined to extend the benefit of anticipatory bail to the applicant.
6. 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