

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 352 of 2016

Sonu @ Shershah Katti S/o Jabbar Khan Aged About 34 Years R/o Budhwaripara Ward No. 14 Dongargarh, Thana & Tahsil - Dongargarh, Civil & Revenue Distt. Rajnandgaon Chhattisgarh (Wrongly Mention Budhwarapara)

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh, Civil & Revenue Distt. - Rajnandgaon Chhattisgarh

---- Respondent

For applicant – Shri Sunil Sahu, Advocate.
For Respondent/State –Miss. Sunita Jain, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

25/04/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 105/2016 registered at Police Station Dongargarh, Distt. Rajnandgaon for offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.
2. As per the prosecution case on 5/03/2016 the applicant was pillion rider to the other accused Bablu Sahu and Raja Gouli and they were travelling with the illicit liquor and after spotting the police two of the accused fled away and Bablu Sahu was caught on the spot.
3. Learned counsel for the applicant submits that liquor was not seized while applicant was travelling with the other co-accused but it was seized from Bablu Sahu in front of his house. Therefore, applicant has been falsely implicated in this case and no iota of evidence is against the applicant except statement which is oral document and thereby since seizure has been made from Bablu Sahu allegation cannot be attributed to this applicant.

4. Learned State counsel opposes the prayer for grant of bail.

5. I have perused the case diary and the documents. Charge sheet in this case has been filed. Seizure would show that seizure was made from Bablu Sahu in front of his house. Though statement has been made that applicant fled away, except such statement nothing is on record to show that applicant was in possession of liquor and it is stated that applicant ran away. Therefore for failure to catch hold of applicant by police the presumption cannot be given to prosecution when entire seizure is already made. Considering this fact and seizure has already been made in front of the house of other co-accused, only on the statement that applicant had ran away prima facie it appears allegation cannot be attributed to this applicant. Consequently, bar of Section 59-A of the Excise Act would not be applicable in the present facts of this case, therefore I am inclined to extend 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 local 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) 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