

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 19 of 2016

Kavaljeet Singh, son of late Shri Trilok Singh, aged about 51 years, resident of Shyam Nagar Police Station, Civil Lines, Raipur, District Raipur (C.G) ... **Applicant**

Vs.

State of Chhattisgarh, through the Station House Officer, Police Station Tikrapara, District Raipur (C.G).
... **Respondent**

For the applicant	:	Mr. Praveen Das, Advocate.
For the Respondent	:	Mrs. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24.02.2016

1. Apprehending arrest in connection with Crime No.492 of 2015 registered at Police Station Tikrapara, Raipur District Raipur (C.G) for the offences punishable under section 34(2) of the 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 04.10.2015 when a raid was conducted in a Saheb Dhabha, 11.650 bulk litres of illicit liquor seized from the applicant and the applicant has been inculpated for the fact that he is owner of the premises.
3. Learned counsel for the applicant submits that the applicant has leased out the premises to one Pawan Kumar Kshatri on 01.07.2015 and he relied on lease agreement placed along-with bail petition vide Annexure A-2 which shows that Pawan Kumar Kshatriya was in

possession of the said Dhabha. He, therefore, submits that the applicant has not committed any offence and he may be enlarged on anticipatory bail as no prima-facie offence can be said to have been committed.

4. Per contra, learned State Counsel opposes the prayer for grant of bail. On earlier occasion, learned State Counsel was directed to verify the fact as to whether the applicant was in possession of the premises where-from the liquor was seized. State Counsel on verification has come out with the fact that the applicant has leased out the Dhabha to one Pawan Kumar Kshatri for the period from 01.07.2015 to 30.05.2016.
5. Perused the statement of Pawan Kumar Kshatri. Taking into such fact, prima facie, it appears that the applicant is not at all in physical possession and control over the premises where-from the liquor was seized. Therefore, Prima facie no offence is made out against the applicant and the bar u/s 50(c) of the Excise Act is not attracted. In the result, I am inclined to allow this bail application.
6. Accordingly, the 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**

Rao