

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC(A) No. 436 of 2016**

Ashish Gupta S/o Late Shri Jawahar Lal Gupta Aged About 26
Years Occupation Hotel Business, R/o Ward No. 13, Near Railway
Station Kargi Road Kota, Thana & Tahsil Kota, Civil & Revenue
District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police
Station Kota, District Bilaspur, Chhattisgarh.

---- Respondent

For applicant – Shri Sunil Sahu, Advocate.
For Respondent/State –Shri Anant Bajpai, PL.

Hon'ble Shri Justice Goutam Bhaduri**Order****10/05/2016**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 22/2016 registered at Police Station Kota, Distt. Bilaspur (C.G.) for offence punishable under Section 34 (2) of the Chhattisgarh Excise Act.

2. As per the prosecution case on 3/02/2016 on a information received house of the applicant which was situated at Housing Board Colony, Kota was raided and 14.940 bulk liters of liquor was seized from the other co-accused namely Manish Jigyasi and the applicant had ran away from the spot along with other co-accused.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in this case as he is the owner of the house and the house was given on rent and he was not in possession of the house. It is submitted that applicant is simply owner of the house as seizure has already been made from the other co-accused and offence cannot be attributed to this applicant. It is further submitted that initially Crime

No.21/2016 was registered for gambling of the cricket and subsequently though incident was one and same, another case was registered against this applicant who was not at all present, therefore the applicant may be granted benefit of anticipatory bail.

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

5. I have perused the case diary. Admittedly, applicant was not apprehended on the spot. Case diary contains the electricity bill which is of the house wherein applicant is shown to be the owner. According to the seizure, seizure was made from one Manish Jigyasi of the entire 14.940 bulk liters of liquor. Perused the statement of seizure witness also wherein prima facie presence of the applicant on the spot at the time of seizure do not appears to exist. Therefore, considering the documents, prima facie offence as alleged appears to be diluted against the applicant. 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

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