

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 713 /2016

Shiv Bharti, S/o. Late Gopal Bharti, Aged About 31 Years, R/o. Village & Post Kanakot, Police Station Utai, Tahsil Patan, District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Utai, District Durg, Chhattisgarh

---- Respondent

For Applicant : Mr. Avinash Chand Sahu, Advocate.
For Respondent : Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/08/2016

1. Apprehending arrest in connection with Crime No.114/2016 registered at Police Station- Utai, District Durg (C.G.) for the offence punishable under Section 34(2) of C.G. Excise Act, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, on 03.05.2016, the ladies of the village raided the house of the applicant and found that 17.82 liters of illicit liquor was with the applicant who fled away from the scene and thereafter the said liquor was taken away from the spot and was seized by the police.
3. Learned counsel for the applicant would submit that in the instant case seizure has not been made by the police instead one Mahila Samuh got the seizure made at the community hall of the village and the allegations have been attributed which do not make it a case, therefore, the basic ingredients of commission of seizure and possession of liquor is absent; therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the case diary and the documents, which shows that seizure is not made in person and instead it was at the instance of Mahila Samuh of the village who alleged that the applicant was selling the liquor. Considering the fact that the seizure was not made in person from the applicant and it was not investigated and also the seizure was not made by the officer authorised under the Cr.P.C., I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended 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 furnishing a personal bond to a 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