

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA 830 of 2017**

- Smt. Rukmani Sahu W/o. Dwarika Sahu, aged about 56 years, R/o. Sitlapara, Ravanbhata, Gobra Nayapara, Police Station- Nayapara Gobra, Tehsil- Abhanpur, District- Raipur (C.G.)

**---- Applicant****Versus**

State of Chhattisgarh Through: Station House Officer, Simga, District- Baloda-Bazaar (C.G.).

**---- Respondent**


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| For Applicant  | : | Mr. Surfaraj Khan, Advocate   |
| For Respondent | : | Mr. Vinod Tekam, Panel Lawyer |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order****24/11/2017**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. It is submitted by counsel for the applicant that the applicant is apprehending arrest in connection with Crime No. 255/2017, registered at Police Station- Simga, District: Baloda-Bazaar-(C.G.) for the offence under Sections 34 (2) of the Chhattisgarh Excise Act.
3. It is submitted by counsel for the applicant that the applicant is registered owner of the car bearing registration no. CG04 HP 6438. On the date of incident, the car was being driven by the driver- Hemant

Kumar Dubey. The car was occupied by three other persons, who was travelling to some place. When they were interrogated and searched by police personals of Simga, 146.880 bulk liters of foreign liquor was recovered. The applicant was not an occupant of the car and neither had knowledge that the car under his ownership was used for the transportation of the said liquor. She has been implicated only for the reasons that she is registered owner of the said vehicle. Hence, it is prayed that the applicant may be benefited with grant of anticipatory bail.

4. Counsel for the State opposes the bail application and submits that Section 59-A of Chhattisgarh Excise, Act 1915 (henceforth 'the Act 1915') specifically bars the entitlement of any application for grant of anticipatory bail and for this reason, this application cannot be entertained and decided by this Court.
5. Heard the counsel for both the parties and perused the case diary.
6. In **Naresh Kumar Lahria v. State of MP, 2004 (4) MPHT 205**, it was held that the applicant/accused shall be at liberty to make submissions that no case is made out against him/her regarding any offence under the Act 1915 and hence, the provisions of Section 59-A of the Act, 1915 shall not be attracted.
7. Considering the facts of the case as discussed above, I am of the view that the applicant was not present on the spot where the search and seizure of the liquor was made and also considering that Section 59-A of the Act, 1915 is not attracted in this case, therefore, the application

is allowed.

8. 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, she shall be released on bail by the Officer arresting her 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 herself 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 them 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 her by the said Court till disposal of the trial.

Sd/-

**(Rajendra Chandra Singh Samant)**  
**Judge**