

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 361 of 2018**

Dilip Singh S/o Kishan Singh Aged About 26 Years R/o Budhwari Bazar,
Ward No. 21, Korba, District Korba Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Civil Line, Bilaspur District Bilaspur Chhattisgarh, District : Bilaspur,
Chhattisgarh.

---- Respondent

For the Applicant : Shri Goutam Khetrapal, Advocate.
For the Respondent/State : Ms. K. Tripti Rao, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****23.04.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 176 of 2018, registered at Police Station – Civil Line, Bilaspur, District – Bilaspur, Chhattisgarh for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case only for the reason that he is the registered owner of the vehicle bearing registration No. C.G.16-B 5913 whereas, infact main accused - Shivkumar Nagesh who happens to be neighbour of the applicant in Korba had borrowed the vehicle on the day of incident and had

misused it seizure of the liquor has not been made from him. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect.

5. Heard counsel for both the parties and perused the case diary.

6. On the date of incident, the police personnel of police station Civil Line stopped the vehicle bearing registration No. C.G.16B-5913 and made a search. 60 liters of foreign liquor with air-pistol and pellets were found in possession of co-accused Shivkumar Nagesh and the seizure was made accordingly. Hence, this case.

7. On perusal of the contents of the case-diary and after due consideration, it is not disputed that this applicant was not present on the spot when the search and seizure was made. The applicant has a case to defend, hence, in this matter the bar under Section 59-A of the Chhattisgarh Excise Act does not come into operation. Hence, for these reasons, 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, he shall be released on bail by the Officer arresting him 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 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 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 him by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge