

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 529 of 2018

Bhupendra Singh Bhatia S/o Shri Surjeet Singh Bhatia, Aged about 48 years, Managing Director, Goldy Wines Pvt. Near Krishna Cold Storage, Torwa, Bilaspur (C.G.), R/o Dayalband, Thana City Kotwali, Bilaspur, Distt.- Bilaspur (C.G.).

---- Applicant

Versus

State of Chhattisgarh Through- Deputy Commissioner, Division Office, Flying Squad Department of Excise, Raipur, District- Raipur (C.G.).

---- Respondent

For Applicant	:	Mr. Mateen Siddique, Advocate
For Respondent	:	Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

29/06/2018

1. Heard.
2. The applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 155/2001 registered at police station –Chhattisgarh Division Office, Flying Squad, Department of Excise, Raipur (C.G.) for the offence punishable under Section 34 (2) and 44 of the Excise Act.
3. As per prosecution story on 26/09/2001 at about 7:00 pm near ring road, Shankar Nagar Raipur, truck bearing no. NL03 A 6814 was found to be loaded with liquor. The said vehicle was being driven by Balwinder Singh and another person Raju was sitting as helper in the said vehicle. Total 5400 bulk litres of Goa Special liquor was found.

As per prosecution story, it was found that the seized vehicle was sent from Kedia Distillery to Goldy Wine Shop, Bilaspur on 26/09/2001 under a certified pass and permit. According to the said permit, the vehicle was to be driven from Distillery (Kumhari) to Bilaspur via Telibandha Ring Road, but the vehicle entered to the extent of 10 Km to Shailendra Nagar and was caught there. It was also found that the present applicant is the Managing Director of the Goldy Wines. After investigation, charge-sheet under Section 34 (A) (2) and 44 of the Excise Act was submitted before the Trial Court against Balwinder and Raju. The present applicant was declared absconding.

4. Learned counsel appearing on behalf of the applicant submits that there is no any specific allegation against the applicant. The only operative reason for including the applicant is that at the relevant time, he was working as Managing Director of said Goldy Wine Shop, Bilaspur and he is licensee on whose name, the liquor was being transported. He further submits that on due permit, the vehicle was going from Kedia Distillery to Goldy Wine shop and only the truck driver's fault is that he has changed the actual route and only on that basis it cannot be said that he was carrying illegally liquor. Moreover, in such type of case, vicarious liability cannot be put on the one of the Managing Director of Goldy Wines Pvt Lt. He further submits that neither the applicant was found in the vehicle nor the driver of the vehicle has stated anything against the applicant. He further submits that no offence is made out against the present applicant, therefore, the applicant may be extended the benefit of anticipatory bail.
5. Learned counsel appearing on behalf of the State opposes the said application and submits that the said vehicle containing liquor was

found about 10 Km away from the route from which it was to be transported under the direction of the licensee, therefore, prima-facie the applicant is involved.

6. Considering the facts and circumstances of the case, particularly the fact that the applicant was not found in the vehicle nor any liquor has been seized from the possession of the applicant, I am inclined to release the applicant on anticipatory bail.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum of Rs.. 50,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:
 - i. That, the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
 - ii. The accused/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. The accused/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.
9. Certified copy, as per rules.

Sd/-
Judge
Arvind Singh Chandel