

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 660 of 2018**

Hariram Sahu Lakhan Sahu, Aged About 34 Years R/o Village Sarkho,
Police Chowki Naila, District Janjgir-Champa, Chhattisgarh., District :
Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through S. H. O. Police Chowki Pantora, P. S.
Baloda, District Janjgir-Champa, Chhattisgarh.

---- Respondent

For the Applicant : Shri Ravindra Sharma, Advocate.
For the Respondent/State : Ms. M. Asha, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.06.2018**

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. 102 of 2018, registered at Police Chowki Pantora, Police Station – Baloda, District – Janjgir-Champa, Chhattisgarh for the offence punishable under Section 34(2) of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The applicant was not present on the spot of incident. He has been implicated only on the basis of the memorandum statement given by co-accused – Satish Yadav @ Bata, which is not legally

admissible. 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 P.S. Pantora, District Janjgir-Champa seized 28.640 bulk liters of illicit liquor from the possession of co-accused – Satish Yadav @ Bata. The statement made by co-accused that this applicant was present before the raid was conducted and then he fled from the spot. Hence, he was arrayed as accused in this case.

7. Considering the entire material present in the case-diary, I am of the opinion that the Bar under Section 59(A) of the Excise Act is not applicable in this case, hence, the application deserves to be 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. He 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 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