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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 681 of 2018**

Devpat Yadav S/o Kashiram Yadav Aged About 28 Years R/o Village Blangi,
Police Station Raghunathnagar, Tahsil Wadraf Nagar, District Balrampur
Ramanujanj, Chhattisgarh, District : Balrampur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Raghunathnagar, District
Balrampur Ramanujanj, Chhattisgarh, District : Balrampur, Chhattisgarh.

---- Respondent

For the Applicant : Shri A.K. Yadav, Advocate.
For the Respondent/State : Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.07.2018**

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. 24 of 2018, registered at Police Station – Raghunathnagar, District – Balrampur-Ramanujanagar, Chhattisgarh for the offences punishable under Sections 32(2) and 42 of the Chhattisgarh Excise Act.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. It is also submitted that no liquor has been seized from the possession of the applicant. He has been implicated only for

the reason that his motorcycle was found on the spot. 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. It is submitted that the application for anticipatory bail cannot be entertained under the provisions of Section 59(A) of the Chhattisgarh Excise Act and previously, the applicant having been prosecuted in one case for similar nature of offence. Hence, he is not entitled for grant of anticipatory bail.

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

6. On the date of incident, the police personnel of P.S. Raghunathnagar, District Balrampur-Ramanujnagar raided the hotel of Yogendra Jaiswal and found 8.4 bulk liters of foreign liquor and one motorcycle on the spot, which were seized. It is alleged that the applicant was present on the spot and on seeing the police, the applicant fled from the spot. Hence, this case.

7. As no seizure of liquor has been made from the possession of the applicant, 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