

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1254 of 2018**

Brijlal @ Vishal Kurre S/o Bedram Kurre Aged About 29 Years R/o- Village Dhamni, Post- Sargaon, Dhamni, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Police Thana- Bhatapara (Gramin), District- Baloda Bazar- Bhatapara, Chhattisgarh., District : Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Deepak Jain, Advocate.
For the Respondent/State : Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.10.2018**

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. 224 of 2018, registered at Police Station – Bhatapara, District – Baloda Bazar-Bhatapara, Chhattisgarh under Section 34(2) of the Excise Act.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case and there is no legally admissible evidence in

this case. The applicant has been arrayed as accused in this case only on the basis of the memorandum statement given by the co-accused persons. 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 there is evidence present in the case-diary regarding the involvement of the applicant and under the provisions of Section 59(A) of the Chhattisgarh Excise Act, the application for grant of anticipatory bail in such a case cannot be entertained. Hence, the application be rejected.

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

6. On the date of incident, on a raid conducted by the police personnel of police station Bhatapara in the house of co-accused Suraj Yadav, 216 bulk liters of foreign liquor was found in his possession and he has given memorandum statement to the police that he was entrusted with illicit liquor by the applicant to keep in his possession and sell it out. Hence, this applicant has been arrayed in this case.

7. After due consideration of the admissibility of the evidence, 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. 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