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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A) No. 1365 of 2018**

Mohanlal Mishra, S/o. Shri Kamlakant Mishra, Aged About 30 Years, R/o. Village Dangarh, Post Dangarh, Police Station/tahsil Ambagarh Chauki District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Police Station Manpur, District- Rajnandgaon, Chhattisgarh.

---- Respondent

AND**M.CR.C.(A) No. 1626 of 2018**

Pradeep Yadav, S/o. Laxmi Narayan Alias Lachhu Yadav, Aged About 32 Years, R/o. Ward No. 39, Kaurin Bhata, Gokul Nagar, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Police Station- Manpur, Districtd Rajnandgaon Chhattisgarh.

---- Respondent

For Applicants : Mr. S.S. Baghel, Advocate

For Respondent/State : Mr. Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****05/12/2018**

- Both the bail applications are heard and decided together by this common order as they are arising out of same crime number and the incident.
- The applicants in both the cases are apprehending arrest in connection with Crime No.52/2018, registered at Police Station – Manpur, District – Rajnandgaon for the offence punishable under

Section 34 (2) of the Chhattisgarh Excise Act, 1915, have preferred these applications for grant of anticipatory bail.

3. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case only on the basis of the confessional statement given by the co-accused persons, which is not a legally admissible evidence. No seizure of illicit liquor has been made from the possession of this applicants. Hence, they are not connected with the commission of offence. Therefore, it is prayed that the applicants may be enlarged on anticipatory bail.
4. Per contra learned State counsel opposes the applications for grant of bail and the submissions made in this respect. It is submitted that the application can not be entertained under the provision of Section 59(A) (1) of Excise Act.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. On search made by the police personnel of police station Manpur, District -Rajnandgaon, total 225 liters of foreign liquor was seized from the vehicle, which was in possession of co-accused persons Khaleel Shabeer Sheikh and Satish Nandeshwar. The name of these applicants have appeared in the confessional statement of the co-accused persons.
7. Considered the submissions made and the contents of the case diary. After due consideration on all the material present in the case diary and for the reason that there is no direct recovery of any illicit liquor from the possession of these applicants and looking to the nature of evidence proposed against them for their prosecution, this

Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.

8. Accordingly, the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge