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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 1094 of 2017

Hemchand Soni, S/o. Kamal Kumar Soni, Aged About 24 Years, R/o. Village Mohlai, Police Station -Pulgaon, Tahsil And District Durg Chhattisgarh. Mobile No. 9300828567.

----Applicant

Versus

State Of Chhattisgarh, Through The District Magistrate, District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant : Mr. Goutam Khetrapal, Advocate

For Respondent/State : Mrs. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

27/03/2018

1. Apprehending arrest in connection with Crime No.552/2015, registered at Police Station – City Kotwali Mahasamund, District – Mahasamund for offence punishable under Section 34 (2) of C.G. Excise Act, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case only for the reason that he is the registered owner of the car bearing registration No.C.G.18-C-1008, from which the liquor has been allegedly seized. It is submitted that at the relevant point of time, the applicant had given his car on rent to one Krishna Pal Singh and the said car was used by him, when the seizure was made.

Hence, no case is made out against this applicant, therefore, it is prayed that, the applicant may be benefited with grant of anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of anticipatory bail and the submission made in this respect. It is submitted that the said Krishna Pal Singh has given affidavit stating that he had not taken the car of this applicant on rent, hence, the applicant himself is responsible for transportation of illegal liquor, hence, no case is made out for grant of anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary and the documents.

5. On the date of incident one India Car as described above was stopped and searched by police personnel of police station- City Kotwali, Mahasamund. The occupants of the car ran away and on search made in total 135 bulk liters of country liquor and 25.2 bulk liters of foreign liquor was seized from the said car. As the applicant is registered owner of the said vehicle, he has been arrayed as an accused.

6. Considered the submissions made and the contents of the case diary. Further considering the material present in the case diary and taking into consideration the fact that the applicant was not present on the spot according to the investigation made so far and applicant has offered an explanation, which is yet to be examined before the trial Court, hence for this reason, this Court is of the opinion that it is a fit case, where the applicant should be extend the benefit of Section 438 of Cr.P.C.

7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.

8. 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 him/her 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram