

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1574 of 2018**

Janakram Yadav, S/o. Bhagatram Yadav, Aged About 28 Years, R/o.
Village Bhatchaura, police Station- Masturi, District Bilaspur Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Excise Circle Masturi, District -Bilaspur
Chhattisgarh.

---- Respondent

For Applicant	: Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	: Mr. Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****14/12/2018**

1. Apprehending arrest in connection with Crime No.50/2018, registered at Police Station – Excise Circle Masturi, District – Bilaspur (C.G.) for offence punishable under Section 34 (1) (a), 34 (2), 59A 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. The seizure of the illicit liquor has been though made from the house of the applicant but it is shown that the applicant was not present at the time when the seizure was made, hence, it can not be said to have been made from the possession of this applicant. House from which, the seizure of article has been made, is shared by parents

and brothers of the applicant, hence, on this basis, it can not be assumed that this applicant was sole possessor of that article. Therefore, it is prayed the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the bail application and the submission made in this respect. It is submitted that there is report from the Revenue Officer that the house was owned and possessed by this applicant and the applicant deliberately fled away from the spot to avoid arrest in this case. The anticipatory bail can not be entertained in such cases according to the provisions of Section 59(A) of the Excise Act. He relied on the judgment passed by this Court in case of ***Pankaj Samundre Vs. State of C.G. reported in 2015 (II) C.G.L.J. 335.***
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. On the date of incident, 5.40 bulk liters of country liquor was seized from the house of the applicant.
6. Nobody was shown to be present at the time of seizure. As this applicant was not present/ in person and his claim that the house is shared by other family members of the family, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
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