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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1566 of 2018**

Ajit Kumar Kurre, S/o. Shri Subhau Kurre, Aged About 30 Years, R/o. Village- Kuteshwar, Police Station- Mandir Hasaud, Tahsil- Arang, District- Raipur, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Commissioner/Excise Circle, Civil Line, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. C.P. Lahrey, Advocate

For Respondent/State : Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****10/12/2018**

1. Apprehending arrest in connection with Crime No.89/2018, registered at Police Station – Commissioner/Excise Circle Civil Lines, Raipur, District – Raipur (C.G.) 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. No seizure of illicit liquor has been made from this applicant and the seizure of illicit liquor as shown is also doubtful because as it has been seized from the compound of the applicant, the applicant can not be held

responsible or regarded as possessor of the said 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.
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 in total 9 liters of country liquor was recovered and seized from the compound of the house of the applicant regarding which this applicant has given no explanation.
6. Considered the submissions made and the contents of the case diary. As the recovery is from the compound though inside the property of this applicant, but it can not be said that seizure has been made from the exclusive possession of the applicant and also for the reason that the house in which the applicant resides is shared with other members, therefore, in this case Section 59 (b) of the Excise Act is not applicable, 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