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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 55 of 2019**

Dhanauram S/o Punitram Jangde Aged About 45 Years R/o Village Sudheli,
P. S. Balodabazar, District Balodabazar-Bhatapara Chhattisgarh, District :
Balodabazar-Bhathapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through P. S. Balodabazar, District Balodabazar-
Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anchal Kumar Matre, Advocate.
For the Respondent/State : Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****29.01.2019**

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. 203 of 2018, registered at Police Station – Baloda Bazar, District Baloda Bazar, Bhatapara, Chhattisgarh for the offences punishable 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. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The

seizure of illicit liquor and mahua-pass has been made from open place near the house of this applicant which is not the place of the applicant. A false FIR has been lodged against the applicant. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that this applicant was present on the spot where the seizure has been made and was seen fleeing by the informant of FIR. Hence, no case is made out for grant of anticipatory bail.

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

6. 25 bulk liters of country-made liquor and other material of preparing liquor were seized from the open place nearby the house of this applicant in Gram Sudheli. The applicant was not found present on the spot when the seizure was made.

7. After considering the entire material in the case-diary, the fact that the seizure of the article has not been made at the instance of the applicant and the place of seizure is open place, I feel inclined to grant anticipatory bail to the applicant.

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

9. 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