

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 62 of 2019**

Awadhesh Yadav, S/o. Govind Yadav, Aged About 49 Years, R/o. Routpara, Bijapur, Police Station and District Bijapur Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Bhairamgarh, District Bijapur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Goutam Khetrapal, Advocate
For Respondent/State	: Mr. Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****29/01/2019**

1. Apprehending arrest in connection with Crime No.39/2018, registered at Police Station – Bhairamgarh, District – Bijapur (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 case is made out against the applicant on the basis of the material present in the case diary. This applicant was neither present on the spot nor any seizure has been made from him. His name has appeared only in the memorandum statement given by one co-accused Narsingh Soni, which was recorded under Section 27 of Evidence Act and that is not legally admissible. Apart from that there is no other

evidence to support the prosecution case. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions 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. Police personnel of Police Station Bhairamgarh, District – Bijapur made seizure of 745 cartoons of foreign liquor in truck bearing registration No. M.P.-09-KD-2139 from co-accused persons.
6. Considered the submissions and the contents of the case diary. There is no evidence regarding this applicant being present on spot nor any witness examined in this respect, who has given statement against him, 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