

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 85 of 2019**

Yogesh Yadav, S/o. Rajaram Yadav, Aged About 24 Years, R/o. Ganganagar Phase 2, Mangla Bilaspur, tahsil And District Bilaspur Chhattisgarh.

----Applicant***Versus***

State Of Chhattisgarh, Through : The Excise Officer, Excise Circle West, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Vipin Singh, Advocate
For Respondent/State	: Mrs. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****05/02/2019**

1. Apprehending arrest in connection with Crime No.81/2018, registered at Police Station – Excise Circle West, Bilaspur, District – Bilaspur (C.G.) for offence punishable under Section 34(A), 34(2), 59(A), 36 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 on record. Seizure of illicit liquor has not been made from this applicant and the place from where the seizure was made is near to

the place of residence of the applicant. 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. It is submitted that this application is not maintainable under the provisions of Section 59-A of the C.G. Excise Act. Further this applicant was seen fleeing from the spot from where the seizure of illicit liquor was made. Therefore, the applicant may not be released on anticipatory bail.
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 15 bulk liters of illicit liquor was seized from the possession of the co-accused Vicky Wadhwani, who was transporting the same in the motor cycle. The applicant was seen riding behind the same motor cycle, who immediately fled away from the spot. Hence, this case.
6. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary, the concerned motor cycle does not belong to this applicant and for the reason that the seizure of illicit liquor has been made from co-accused, therefore, I am of this opinion that the bar under Section 59-A of the Excise Act would not be applicable in this case, 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 applicants 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