

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 113 of 2019**

Dhirendra Yadav S/o Shri Chahura Prasad Yadav Aged About 41 Years R/o Village Seoni (Champa) police Station Champa ,district Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Janjgir District Jangir Champa Chhattisgarh ., District : Janjgir-Champa, Chhattisgarh.

---- Respondent

For the Applicant : Shri Sumit Singh, Advocate.
For the Respondent/State : Shri Mahesh Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.02.2019**

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. 713 of 2018, registered at Police Station – Janjgir-Champa, District Janjgir-Champa, Chhattisgarh for the offences punishable under Sections 34(2) and 59(A) 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. This applicant has been arrayed as accused only for the reason that one

Kirayanama shows this applicant as tenant of the premises. This applicant is not in possession of the said premises from which the seizure of illicit liquor has been made and all the business is handled and managed by co-accused - Manish Agarwal. Therefore, this applicant has no connection with the said commission of offence. 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 according to the *Kirayanama*, this applicant is a tenant and possession holder from where the possession of illicit liquor has been seized. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. On the date of incident, the police personnel of Police Station- Janjgir-Champa, raided the premises of Radheshyam Tent House and from the godown which was given on rent to this applicant, 3,490.90 bulk liters of country-made liquor was seized. Hence, this case.

7. Although, the *Kirayanama* shows that this applicant is a tenant but co-accused - Surendra Naik from whom the liquor has been seized, has stated otherwise that the premises was managed and maintained by another co-accused - Manish Agarwal. Hence, for these reasons, I am of the considered view that the applicant deserves to be released on anticipatory bail.

8. 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