

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 196 of 2019**

Rohit S/o Omprakash Aged About 26 Years Occupation Cultivator, r/o Village Chhipa (Musra) Police Station Dongargarh District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer ,police Station Dongargarh ,district Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicant : Shri Syed Majid Ali, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.02.2019**

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. 27 of 2019, registered at Police Station – Dongargarh, District Rajnandgaon, Chhattisgarh for the offence punishable under Section 34(2) of the Chhattisgarh 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 applicant was not present on the spot from where the seizure of illicit liquor

was made. He has been arrayed as accused only on the basis of the memorandum statement given by the co-accused which is not legally admissible evidence. 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 the application for grant of anticipatory bail is not entertainable under Section 59A of the Chhattisgarh Excise Act. 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. The police personnel of Police Station- Dongargarh made a seizure of 69.120 bulk liters of foreign liquor from the house one Mangilal Verma. Co-accused-Mangilal Verma has made a statement that liquor was given to him to possess on behalf of this applicant. Hence, this case.

7. After due consideration of all the evidence present in the case-diary, 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