

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 703 of 2019**

Durjan Kumar Mitre S/o Shri Sahasram Mitre Aged About 45 Years R/o Village - Lacchanpur, Police Station - City Kotwali, Balodabazar District Balodabazar - Bhatapra Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station City - Kotwali Balodabazaar, District Balodabazaar - Bhatapara Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anchal Kumar Matre, Advocate.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****17.05.2019**

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. 244 of 2019, registered at Police Station – City Kotwali, Baloda Bazar, District – Baloda Bazar, Bhatapara, Chhattisgarh for the offence punishable under Section 34(2) of the Excise Act, 1915.

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. There is only statement of co-accused against this applicant that he was accompanying him when the illicit liquor was being transported, which is not admissible under law. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the applicant is a habitual offender and there are 5 cases of similar nature registered against him. Hence, for these reasons, the applicant is not entitled for grant of bail.

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

6. On the date of incident, the police personnel of police station City Kotwali, Baloda Bazar, Bhatapara made a seizure of 10.860 bulk liters of country-made liquor which has been transported in a motorcycle by two persons. One of the accused fled from the spot and Amardas Jangde was arrested on the spot and seizure was made. Hence, this case.

7. On perusal of the case-diary, it appears that except the statement given by the co-accused, no other witness has been examined on the point that this applicant had been the other person who had absconded on the spot, therefore, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of 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. He 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 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