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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1685 of 2018

- Rohit Baghel S/o Bholaram Baghel, Aged About 29 Years, R/o Village Harnadadar, Police Station Bagbahra, Tahsil Bagbahra, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Basna, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicant – Shri Vikash Pradhan, Advocate.

For Non-applicant/State – Shri A.N. Bhakta, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

16-01-2019

1. Apprehending arrest in connection with Crime No.398/2018, registered at Police Station –Basna, District Mahasamund, Chhattisgarh for offence punishable under Section 34 (2) of Chhattisgarh Excise Act and Section 420, 467, 468, 120-B of the IPC, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against him. No illicit liquor was seized from possession of this applicant and his name has appeared only in the memorandum statement given by the co-accused persons which is not admissible evidence. Therefore, it is prayed that the applicant may be benefited with grant of anticipatory bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the application under Section 438 of the Cr.P.C. is not maintainable in accordance with Section 59A of the Chhattisgarh Excise Act. Therefore, the application may be rejected.
4. Heard learned counsel for the parties and perused the case diary.

5. Police personnel of Police Station Basna made a seizure of 500 cartons of foreign liquor from a truck bearing registration No. M.P. 06 H.C. 2730 from the co-accused persons found on the spot namely Raju, Sanjay and Sunny. Name of this applicant has appeared in the memorandum statement of the co-accused.

6. After considering on the entire material present in the case diary, I am of this opinion that bar under Section 59A of the Chhattisgarh Excise Act is not applicable in such a case, therefore, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge