

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 210 of 2020**

- Parmeshwar Prayag S/o Motiram Prayag Aged About 40 Years
R/o - Village Kottara, Tehsil - Charama, District - North Bastar
Kanker Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through S.H.O. , Police Station - Charama,
District - North Bastar Kanker Chhattisgarh

---- Respondent

For Applicant
For Respondent /State

Mr. Maneesh Sharma, Advocate
Mr. Siddharth Dubey, Dy. GA

Proceedings through Video Conferencing**SB: Hon'ble Mr. Justice Prashant Kumar Mishra****Order On Board****3/7/2020**

1. Heard.

2. This is an application filed under Section 438 of the Code of

Criminal Procedure (in short "the Cr.P.C.") for grant of anticipatory bail to the applicant, who is apprehending his arrest in connection with Crime No.215/2019, registered at Police Station Charama, District North Bastar, Kanker (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915 (in short "the Act, 1915").

3. The concerned Police received secret information on 4.12.2019 that co-accused Aatmaram Poya has stored and is selling liquor. On a raid conducted in his house, Aatmaram Poya was found to be in possession of 9.360 bulk litres of foreign liquor. He informed the Police that the present applicant brings liquor from Madhya Pradesh and distributes the same to him and co-accused Dindayal Netam for selling in the market. When the field of Dindayal Netam was raided, he was found to be possessed of 216 bulk litres of foreign liquor.
4. Surprisingly, despite co-accused Atmaram Poya having informed the Police that the present applicant supplies liquor to him and co-accused Dindayal Netam, his house was not raided nor any recovery of illicit liquor has been made from him.
5. Learned counsel for the State argues that the applicant is a habitual offender and there are 11 previous cases registered against him.
6. Be that as it may, the fact remains that the applicant was neither present on the spot nor in the house(s) of co-accused Atmaram Poya or Deendayal Netam nor his own house has been

raided to make recovery of illicit liquor. The statement of co-accused Aatmaram Poya that the present applicant supplies liquor to him and co-accused Dindayal Netam, is not admissible against the present applicant.

7. Therefore, despite bar under Section 59-A of the Act, 1915 for grant of anticipatory bail and there being lack of *prima facie* evidence against the present applicant to connect him with the seized liquor, this Court is exercising powers under Section 438 of Cr.P.C. for grant of anticipatory bail to the applicant.
8. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory bail on his executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the Arresting Officer with the following conditions :-
 - (i) he shall make himself available for interrogation by a Police Officer as and when required;
 - (ii) he 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 for disclosing such facts to the Court or to any Police Officer.
 - (iii) he shall not influence the witnesses during pendency of the trial.
 - (iv) he shall not involve himself in committing similar offence during pendency of the trial. If any similar offence is

registered against the applicant, the present bail order shall lose its efficacy and the concerned SHO would be at liberty to arrest him for the present crime also, after informing the jurisdictional Magistrate.

9. Certified copy as per rules.

Sd/-

(Prashant Kumar Mishra)

Judge

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