

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 216 of 2020**

- Rajesh Patel S/o Firanlal Patel Aged 38 Years Caste- Aghariya, Resident Of Ward No. 9 Bhanwarchunva, Post Bade Sajapali, Police Station Basna, District- Mahasamund Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through- Police Station- Saragaon, District- Janjgir-Champa Chhattisgarh

---- Respondent

For Applicant
For Respondent /State

Mr. Sanjay Agrawal, 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 (for short "the Cr.P.C.") for grant of anticipatory bail to the applicant, who is apprehending his arrest in connection with Crime No.5/2020, registered at Police Station Saragaon, District Janjgir-Champa (CG) for the offence punishable under Sections 59(A), 34(1)(A) & 34 (2) of the Chhattisgarh Excise Act, 1915 (in short "the Act, 1915").
3. The case of the prosecution is that 6000 bulk litres of foreign

liquor has been recovered from the farm house of co-accused Deepak Das Mahant. Other co-accused namely Nankun Mahant, Raju Das Mahant and Manish Kumar Mahant were also involved and all of them have been arrested. As against the present applicant, co-accused Nankun Mahant has implicated him in his memorandum statement that this applicant is also involved in bringing seized liquor.

4. Admittedly, the seized liquor has not been recovered at the instance of the present applicant nor the recovery has been made from any place belonging to the applicant. He was also not present on the spot at the time of recovery. This applicant has already been allowed interim bail on 5.2.2020 on the ground that he is an HIV positive patient and is under continuous treatment.
5. While opposing the bail application, learned counsel for the State would submit that the applicant was involved in similar offence in the year 2018.
6. Despite bar under Section 59-A of the Act, 1915 for exercising of powers under Section 438 of Cr.P.C., I am inclined to release the applicant on anticipatory bail for the reason that except for the memorandum statement of the co-accused, there is no other direct evidence against the present applicant showing his involvement in the crime. In addition, he is an HIV positive patient and is under treatment.
7. For the above stated reasons, 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 from 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.

8. Certified copy as per rules. Sd/-

(Prashant Kumar Mishra)

Judge

