

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 946 of 2020**

Saleem Khan @ Golu Khan S/o Rasid Khan, aged about 26 years R/o. Village Kothitola, Police Station Bagnadi, Tahsil Dongergarh, District Rajnandgaon (C.G.)

---- Applicant**Versus**

State of Chhattisgarh Through the District Magistrate Rajnandgaon, Joint District Office, Rajnandgaon (C.G.).

---- Respondent

For Applicant : Mr. Shikhar Sharma, Advocate
For Respondent : Mr. Alok Nigam, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**04/09/2020**

1. The matter is heard through video conferencing.
2. The applicant has filed this application under Section 438 of the Cr.P.C for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 13/2020 registered at police station – Bagnadi, District Rajnandgaon (C.G.) for the offence punishable under Sections 34(2) of the Chhattisgarh Excise Act.
3. According to the case of the prosecution, on the basis of secret information received from the informant, the police official searched a car which was being driven by Jakir Khan and seized illegal liquor from the car. It is alleged that the applicant was present inside the car and after seeing the police, he fled away from the car. On this background,

offence has been registered.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case only on the basis of memorandum statement of co-accused Jakir Khan. Apart from memorandum statement of co-accused Jaikir Khan, there is no evidence available against the applicant, therefore, prima-facie no case is made out against the applicant. He prays to extend the benefit of anticipatory bail to the applicant.
5. Learned counsel appearing on behalf of the State opposes the said application. Referring to the provisions of Section 59 of the Chhattisgarh Excise Act, 1015 (henceforth 'the Act'), it is submitted by him that since the seized quantity of liquor more is than 5 bulk liters, therefore, sufficient material is available to implicate the applicant in crime in question. Referring to the memorandum statement of co-accused Jakir and the statement of witnesses before whom the memorandum statement of co-accused was recorded, it is submitted that both the witnesses and Investigating Officer have categorically stated in their statement that at the time of incident, one person was present along with co-accused and he fled away from the spot. He further submits that co-accused has also disclosed the fact that the person who fled away from the spot was the applicant, therefore, prima-faice sufficient material is available, therefore, this bail application may be rejected.
6. I have heard counsel for the parties.
7. Considering the facts and circumstances of the case, argument

advanced by counsel for the parties and the material collected by the prosecution, in my considered view sufficient material is available to make prima-faice case against the applicant and further looking to the Section 59 of the Act, this application is not maintainable, therefore, the same is liable to be dismissed.

8. Accordingly, the anticipatory bail application is dismissed.

Sd/-

(Arvind Singh Chandel)
Judge