

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1014 of 2020

- Ramhit Jaysavar S/o Ramsundar Aged About 50 Years R/o Camp-1, Shastriya Nagar, Ward No. 19, Quarter No. 9/17, PS And Tehsil Supela, District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate, District Kabirdham, Chhattisgarh.

---- Respondent

For Applicant	: Shri S.S. Baghel, Advocate.
For Respondent/State	: Shri Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

29/09/2020

Heard through video conferencing.

1. The applicant has preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 277/2017 (wrongly mentioned as 277/2020 in the lower Court order) registered at Outpost Dashragpur, P.S. Pipariya, District Kabirdham, (C.G.) for the offence punishable under Sections 34(2), 34(1), 37, 41 of the Chhattisgarh Excise Act, 1915.
2. According to the case of the prosecution, on 6.12.2017 on the basis of the information received from informant, police officials raided and searched the vehicle bearing registration number CG 04 CR 7000 driven by co-accused Pradeep Kumar Yadav from where 189 bulk litres of illicit foreign made liquor and from vehicle bearing

registration number MP 18G 3638 driven by one Anil Sen, 405 bulk litres of illicit foreign made liquor was seized. Allegedly, other co-accused persons namely Dilbag Singh, Harjender Singh, Suken Jaiswal were also found sitting inside the vehicles from where total 594 bulk litres of foreign made liquor was seized. During Course of investigation, memorandum statement of Dilbag Singh was recorded where it was disclosed that the seized liquor was transported for sale purpose to present applicant and other co-accused persons namely Deepak and Sonu. On the basis of the above, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. If the entire case is taken as it is, *prima facie*, no offence can be made out against present applicant. It is further submitted that there is no direct allegation against present applicant. Therefore, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Per contra, learned Counsel appearing for the State opposes the bail application and submits that *prima facie*, offence is made out against applicant. Referring to the provisions of Section 59(A) of Chhattisgarh Excise Act, 1915, learned Counsel would submit that since the matter relates to Excise Act, therefore, there is a bar for anticipatory bail. Hence, it is prayed that the applicant may not be granted benefit of anticipatory bail.
5. I have heard learned Counsel appearing for the parties and perused the material available.

6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and on perusal of the statements of the witnesses contained in the case diary, memorandum statement of co-accused Dilbag Singh and also from the contents of the F.I.R., without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

7. Accordingly, the bail application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) 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 fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge