

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 291 of 2021

Sanjeet Sana S/o Ranjeet Sana, Aged About 40 Years, R/o : village -Bodegaon, P.S -Aundhi, District -Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Police Station -Anudhi, District – Rajnandgaon, Chhattisgarh.

--- Respondent

For Applicant	: Mr. S.S. Bhagel, Advocate.
For Respondent-State	: Mr. Hari Om Rai, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

05/04/2021

Heard.

1. Applicant has filed this bail application under Section 438 of the Cr.P.C. apprehending his arrest in connection with Crime No.01/2021 registered at Police Station -Anudhi, District – Rajnandgaon, (C.G.), for the offence punishable under Section 34 (2) of the CG Excise Act, 2015.
2. Case of the prosecution, in brief, is that the Police received secret information that Lambu Sana @ Sanjeet Sana (present applicant) is transporting illicit liquor in his Bolero bearing registration No.CG-13/U/7183 to be unloaded in the house of Jairam Dugga. On the basis of said information, the police raid the house of Jairam Dugga where the Bolero vehicle was standing. Upon seeing the Police party, present applicant run away from the spot but Mantosh Mandal, Prataph Mandal and Jairam Dugga were arrested from the spot. During search of the house of Jairam Dugga and Bolero vehicle, Police found 20 boxes of Gowa liquor from the Bolero vehicle and 58 boxes from the house of Jairam Dugga. Based upon which aforementioned offence was registered against present applicant.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in this case only because the Bolero vehicle is registered in his name. Applicant was neither present on the spot nor the said vehicle was seized from his possession. Hence, he may be extended benefit under Section 438 of Cr.P.C.
4. On the other hand, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that there is evidence available in the FIR that upon seeing the Police party, present applicant ran away from the spot. Total 702 bulk litres of illicit liquor has been seized from the spot. Hence, applicant is not entitled for benefit under Section 438 of Cr.P.C. He further submits that under Section 59A(i) of the Chhattisgarh Excise Act, 1915, application under Section 438 of Cr.P.C itself is not maintainable.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, evidence available in the case diary that applicant ran away from the spot upon seeing the Police. In view of fact appearing in case diary application itself is not maintainable in view of bar under Section 59A(i) of the Chhattisgarh Excise Act, 1915.
7. Accordingly, anticipatory bail application is dismissed.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-