

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 452 of 2021**

- Awinash Wadhwa S/o Shri Raj Kumar Wadhwa, aged about 28 years, R/o Ward No. 13, near Mahakali Mandir, Tilda-Nevra, District Raipur (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh - Through : Station House Officer, Police Station Tilda Nevra, Raipur (C.G.)

---- Respondent**And****MCRCA No. 567 of 2021**

- Vijay Khubchandani S/o late Hemraj Khubchandani, aged about 40 years, R/o behind Jyoti Hospital, Tilda Newra, District Raipur (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh - Through : Station House Officer, Police Station Tilda Nevra, Raipur (C.G.)

---- Respondent

For Applicants	:	Mr. Pawan Kesharwani, Advocate in MCRCA No.452/2021 and Mr. Rajesh Ranjan Sinha, Advocate in MCRCA No.567/2021.
For Respondent.	:	Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****10/06/2021**

Proceeding through video conferencing.

1. Since the aforesaid bail applications arise out of the same crime number, they are being heard and decided by this common order.
2. These applications under Section 438 of the Code of Criminal Procedure have been filed by the applicants who are

apprehending their arrest in connection with Crime Number 392/2020 registered at Police Station - Tilda-Newra, District Raipur (C.G.) for the offence punishable under Section 34(2) of Excise Act in both the MCRCA and Section 41 in MCRCA No.452/2021 of Excise Act.

3. The prosecution story, in brief, is that on 09.12.2020 at 4.30 pm, the Police Station Tilda Nevra received a secret information from the informer about transporting liquor in the vehicle 207 bearing registration No. C.G.-04-JD-3421 for selling. The vehicle was parked behind Heera Clothes Stores near village Nevra. The police party, acting on this tip-off, reached the spot, conducted search and found 30 boxes of Goa whisky (270 bulk liter) from the vehicle. During investigation, police arrested on Nikhil Kumar, his memorandum statement was recorded which reveals that the present applicants had taken the said vehicle on rent from the registered owner in the name of arrested Nikhil Kumar. Based on this, the offence has been registered against the applicants.
4. Learned counsel for the applicant in MCRCA No.452/2021 submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that only on the memorandum statement of Nikhil Kumar, he has been implicated in the crime in question. He also submits that wife of applicant is pregnant and there is no one in the family to take care of her, therefore, he may be granted anticipatory bail.
5. Learned counsel for the applicant in MCRCA No.567/2021

submits that there is no seizure from the present applicant and only on the basis of memorandum statement, he has been implicated in the crime in question. He further submits that the applicant has no criminal antecedent and his name does not find place in FIR also. Therefore, he may be granted anticipatory bail.

6. Counsel for the State however opposes the applications for anticipatory bail.
7. After hearing counsel for the parties and considering the facts and circumstances of the case, quality of evidence and further considering the nature of offence, without commenting anything on merits of the case, this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the applicants.
8. Accordingly, the applications are allowed. It is directed that in the event of arrest of the applicants in connection with aforesaid crime number, they shall be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- - Rs.50,000/- each with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the court concerned, as the case may be, with the following terms and conditions:
 - (i) that the applicants shall make themselves available for interrogation/medical examination before the concerned investigating officer as and when required;
 - (ii) that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case as to dissuade him/her from disclosing such facts to the Court or to any police officer;

- (iii) that the applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajani Dubey)
Judge

pkd