

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 756 of 2021

- Ravindra @ Bindal Sovain, Son of Shri Bhagirathi, aged about 36 years, R/o Chirmiri, Godaripara, Bachra, Police Station Chirmiri, District Koriya (CG)

---- Applicant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police of Police Station Jhagrakhand, District Koriya (CG)

---- Non-applicant

For Applicant	:	Mr. Anil Gulati, Advocate
For Non-applicant	:	Mr. B.L. Sahu, Panel Lawyer.

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

27/7/2021

1. Heard.
2. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.36/2021 registered at Police Station - Jhagrakhand, District Koriya (CG) for commission of offence under Section 34 (2) of the Chhattisgarh Excise Act, 1950.
3. Case of the prosecution, in brief, is that on 29.1.2021 at about 22:40 hrs seeing the police party, two persons coming on Boxer motorcycle from Khongapaani side, tried to escape by turning their motorcycle and in that process, pillion rider of motorcycle fell down along with bag in his hand. The driver of motorcycle however managed to escape. Pillion rider fallen from motorcycle was arrested, who disclosed his name as Sunny Dewangan and on search being made, 27 bulk liter of foreign liquor kept in three cartons inside the bag was seized from his possession. During investigation, co-accused disclosed name of present applicant as the driver of motorcycle. Based upon the arrest along with foreign liquor and memorandum statement of co-accused, instant crime is registered against co-accused Sunny Dewangan and present applicant.

4. Mr. Anil Gulati, learned counsel for the applicant would submit that present applicant has been made accused in instant crime only on the basis of memorandum statement of co-accused Sunny Dewangan, hence *prima facie* no offence would be made out against present applicant.
5. Mr. B.L. Sahu, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that as per memorandum statement of co-accused Sunny Dewangan, it is present applicant who was driving motorcycle and escaped from the spot along with motorcycle. Hence, he is not entitled for grant of anticipatory bail.
6. I have heard learned counsel for the parties.
7. Under Section 59A (i) of the CG Excise Act, 1950 there is specific bar in entertaining an application for grant of anticipatory bail where accused is involved in commission of offence under Section 34 of the CG Excise Act, 1950.
8. In view of specific bar under the Excise Act, present anticipatory bail application on behalf of applicant is not maintainable and it is accordingly dismissed as not maintainable.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-