

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1638 of 2020**

- Gopal Kundu S/o Shri Gosai Kundu, aged about 35 years, by caste - General, R/o village Shantinagar Bande, Tahsil - Pakhanjur, District - North Baster Kanker (C.G.)

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Bande, District North Baster Kanker, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Sunil Sahu, Advocate.
For Respondent.	:	Ms. Ishwari Gritlahre, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****26/03/2021**

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicant who is apprehending his arrest in connection with Crime No.42/2020 registered at Police Station - Bande, District North Baster Kanker (C.G.) for commission of the offence punishable under Section 34(2) of the Chhattisgarh Excise Act.
2. The prosecution case, in brief, is that on 20.09.2020, acting upon a tip-off that liquor is being kept and transported in Bolero vehicle at NH-33, the police conducted search near Marora Forest Naka and seized 40 bottles of beer of Kingfisher Company (26.000 bulk liters) and arrested co-accused persons. During investigating, the statement of co-accused persons were recorded, based on which, the police also sought to arrest the present applicant.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that the Youth Congress had moved several complaints against the S.H.O., P.S. Bande, for his transfer to some other area owing to his malpractice and the present applicant has also signed in the complaints. On the basis of these complainants, the SHO has been transferred and due to the said act of the applicant, he has been implicated in the crime in question. He also submits that the 26.000 bulk liters of illicit liquor has been seized by the police from co-accused persons and not from the present applicant. The present applicant has no criminal antecedent, therefore, he may be granted anticipatory bail.
4. Counsel for the State however opposes the application for anticipatory bail.
5. After hearing counsel for the parties and considering the facts and circumstances of the case, and further considering the fact the no seizure has been made by the present applicant, 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 applicant.
6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- 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 applicant shall make himself available for interrogation/medical examination before the concerned investigating officer as and when required;
- (ii) that the applicant 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 applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Rajani Dubey)
Judge