

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1736 of 2020**

- Tuntun Prasad Gupta, S/o Baliram Prasad Gupta, Aged About 30 Years, R/o Kumhar Para, Jagdalpur, District Bastar Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station- Kotwali, Jagdalpur, District Bastar Chhattisgarh.

---- Respondent

For Applicant :Mr. Siddharth Rathod, Advocate.

For Respondent :Ms. Fouzia Mirza, Additional Advocate General

Hon'ble Smt. Justice Rajani Dubey**Order on Board****31/05/2021**

- The matter is heard through video conferencing.
- 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. 457/2020 registered at Police Station- Kotwali, Jagdalpur, District Bastar (C.G.) for commission of the offence punishable under Sections 34 (2) & 59 (A) of the C.G. Excise Act.
- It is the case of the prosecution that, on the basis of information, total 665.64 bulk liters of illicit liquor has been seized by the police from the illegal possession of applicant and other co-accused persons thereby committed the offence.
- Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further

submits that there is no seizure of liquor from the possession of the present applicant and only on the basis of memorandum of co-accused, present applicant has been implicated in this offence, therefore, the present applicant may be granted anticipatory bail.

- On the other hand, counsel for the State however opposes the application for anticipatory bail.
- Taking into consideration the condition incorporated in Section 59-A(ii) of the C.G. Excise Act, 1915, and bearing in mind the principles of law laid down in **Banti Singh v. State of Chhattisgarh** (M.Cr.C. No.6846 of 2014), decided on 05.01.2015), if the facts of present case are examined, it is apparent that only 665.64 bulk liters of illicit liquor has been seized from him which is more than prescribed limit of 5 bulk liters.
- After hearing counsel for the parties and considering the facts and circumstances of the case, in particular on the basis of memorandum of co-accused, present applicant has been implicated, this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the applicant. 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. 1,00,000/- 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 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 or 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)
Vacation Judge**

Ruchi