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HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 1684 of 2026

Jharendra Manikpuri S/o Damaru Das Manikpuri, Aged About 35 Years R/o Village- Baniyagaon, P.S. Bhanpuri, Distt.- Bastar (C.G.) **... Applicant**

versus

State Of Chhattisgarh Through Station House Officer, Police Station- Bhanpuri, Distt.- Bastar (C.G.) **...Respondent**

For Applicant	: Mr. Sahil Sahu, Advocate.
For Respondent-State	: Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

09/10/2026

1. Applicant has preferred this application under Section 482 of Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 01/2024 registered at Police Station - Bhanpuri, District - Bastar (C.G.) for the offence punishable under Sections 34(2) of the C.G. Excise Act and Section 279 of the IPC.

2. The prosecution case, in brief, is that on 04.01.2024, Police Station Bhanpuri, District Bastar (C.G.), received secret information that the driver of a Maruti Swift Dzire car bearing registration No. CG-04-KS-2881 had caused an accident by driving rashly and negligently. Accordingly, the police team reached the spot and, during investigation, found 20 boxes of Goa Whisky bearing the seal of the Madhya Pradesh Government in the said vehicle. A total of 180 litres of foreign liquor,

valued at Rs. 1,10,000/-, was seized along with the vehicle, and an offence was registered against an unknown person.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present crime. He further submits that the applicant has been implicated solely on the basis of the memorandum statements of the co-accused persons, namely, Ashik Sheikh and Vivek Verma. The vehicle from which the alleged liquor was seized is not registered in the applicant's name, and the applicant was neither present at the spot nor found in its vicinity. He, therefore, submits that the applicant has no connection with the alleged commission of the crime and prays for grant of anticipatory bail.

4. Learned State Counsel opposes the submissions made by learned counsel for the applicant, primarily on the ground that the application for anticipatory bail is not maintainable in view of the bar imposed under Section 59-A(i) of the Chhattisgarh Excise Act. He further submits that, upon receiving information regarding a motor vehicle accident, police reached at the spot and, upon searching the vehicle, seized 180 bulk litres of foreign liquor. During investigation, the owner of the vehicle disclosed in his memorandum statement that the vehicle was registered in the name of Deepak Choudhary. Upon interrogation, Deepak Choudhary stated that he had sold the vehicle to one Mohd. Ashik Sheikh much prior to the incident. Thereafter, Mohd. Ashik Sheikh was interrogated, and upon his admission that he had purchased the vehicle from Deepak Choudhary through a written agreement dated 19.12.2023, he was arrested. Subsequently, Vivek Verma was also arrested, and both co-accused persons allegedly disclosed that they were transporting liquor for the applicant. Learned State Counsel further submits that the applicant has one criminal antecedent involving a similar offence.

5. I have heard learned counsel for the respective parties.

6. So far as the first objection raised by learned State Counsel regarding the maintainability of the anticipatory bail application is concerned, the facts of the case reveal that the police received information regarding a car lying on the roadside after meeting with an accident. Upon reaching the spot, the police did not find any person in or around the vehicle. Upon searching the vehicle, police found 180 bulk litres of foreign liquor being illegally transported therein. The vehicle was not registered in the name of the applicant but in the name of Deepak Choudhary, who had sold the same to Mohd. Ashik Sheikh through a written agreement dated 19.12.2023.

7. In view of the aforesaid facts and circumstances of the case, particularly the fact that neither the applicant is owner of the vehicle nor he found at the spot, this Court is of the opinion that the bar imposed under Section 59-A(i) of the Chhattisgarh Excise Act would not be attracted in the facts of the present case. In this regard, I find it appropriate to take support in the case of ***Dilip Kumar Suryavanshi vs. State of Chhattisgarh,*** order passed by the coordinate Bench of this Court in MCRCA No. 1391 of 2020, dated 15.12.2020. The relevant paragraph of the said order is extracted herein below:-

> 7. This Court in Pankaj Samundre (supra), after referring to the decisions rendered by the Division Bench of the MP High Court in ***Naresh Kumar Lahria v State of MP*** and Others' and the decision rendered by the Supreme Court in ***Rajamani v State of Kerala***' has held that in view of Section 59-A(i) of the Act an accused who has allegedly committed offence under Section 34(1)(a) of the Act is not entitled for anticipatory bail if ingredients of the said offence are available against him.
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> 8. In para 10 of the decision rendered in **Pankaj Samundre (supra)** the coordinate Bench has quoted a paragraph from **Naresh Kumar Lahria (supra)**. Para 10 is quoted below for ready reference:
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> 9. In the later part of judgment, the MP High Court has further held that it would be open to the accused to

show that no offence inviting frown of section 59A(i) is made out as the basic ingredients are absent, and held as under:-

".....Similarly, we have no hesitation in holding that it would be open to a accused to show that no offence inviting frown of Section 59A (i) of the Act is made out as the basic ingredients are absent. It needs no emphasis that it would be dependent of the fact of each case. We may hasten to state here that merely because Section 438 is not applicable to certain categories of offences, the Court is not bereft of power only because in the FIR the said offences are mentioned. It can not be stated with certitude that if the accused can put forth a case or make out of a case, though the offences which have been mentioned under Section 59A (i) of the Act do find mention in the FIR, but essentially and factually the case does not fall under the said provision, irrefragably the Court can entertain the application for grant of anticipatory bail because it is not the nomenclature which should govern the scenario but the real essence....."

9. It is, thus, apparent that merely because Section 438 of the Cr.P.C. is not applicable to certain categories of offences, the Court is not bereft of power only because in the FIR the said offences are mentioned. If the accused can putforth a case or make out of a case, though the offences which have been mentioned under Section 59A (i) of the Act do find mention in the FIR, but essentially and factually the case docs not fall under the said provision, irrefragably the Court can entertain the application for grant of anticipatory bail.

10. It is also to be seen that the power under Section 59-A(i) of Act gets attracted when the accused has allegedly committed the offence under Section 49-A or under Section 34 (1) (a) or (b) whereas in the present case the applicant has allegedly committed the offence under Section 34 (2) of the Act.

11. In the case at hand, the applicant was not present on the spot, the illicit liquor has not been recovered from him. The document Annexure - A/4, *prima facie*, shows that the vehicle has been sold to one of the arrested accused way back on 20-8-2019; and moreover there is no material even in form of memorandum statement of the co-accused that the illicit liquor belongs to the present applicant. Thus, the ingredients of offence under Section 34 (2) are missing against the present applicant.

8. In view of the aforesaid facts and circumstances of the case and taking into consideration the decision of this Court in *Dilip Kumar Suryavanshi vs. State of Chhattisgarh*, I am inclined to entertain the present anticipatory bail application.

9. Accordingly, application is **allowed** and it is directed that in the event of arrest of applicant in connection with the crime in question (01/2024), he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicant shall also abide by the following conditions:

(i) that the applicant shall make himself available for interrogation before the Investigation 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 so 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;
(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.

10. Office is directed to send a certified copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-

(**Parth Prateem Sahu**)
JUDGE

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