

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1428 of 2020**

- Mahendra Patel S/o Santlal Patel, aged 39 years, R/o village Khurshipahar, P.S. Basna, District Mahasamund (C.G.)

---- Applicant**Versus**

- State Of Chhattisgarh Through : Police Station Tumgaon, District Mahasamund, Chhattisgarh

---- Respondent

For Applicant : Mr. Sanjay Agrawal, Advocate.
For Respondent. : Mr. Devesh Verma, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****31/03/2021**

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.131/2020 registered at Police Station - Tumgaon, District Mahasamund (C.G.) for commission of the offence punishable under Section 34(2) of the Excise Act.
2. The prosecution case, in brief, is that on 17.09.2020, acting upon a tip-off that 504 cartons of country made liquor, plane liquor and English liquor are being transported in the vehicle bearing registration No.RJ-27-GB-2317, the police conducted search and seized 4563 bulk liters of illicit liquor 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 as the consignment was to be delivered to 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 only on the basis of statement of co-accused persons, the present applicant has been roped in the crime in question. He also submits that the present applicant is not the owner of truck, he was not present at the spot and no recovery has been made 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. Learned State counsel submits that the delivery of liquor so seized was to be made to the present applicant.
5. After hearing counsel for the parties and considering the facts and circumstances of the case, in particular the facts that except memorandum of co-accused, there is no prima-facie evidence against the applicant as also no seizure has been made from 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