

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

CRIMINAL APPLICATION (ABA) NO.175 OF 2016

(Shri Bandu Bhaskar Sakhalwar ..vs.. State of Maharashtra, through PSO, PS Chandrapur City,
Chandrapur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.
DATED : 28-03-2016

Heard Shri S.O. Ahmed, Advocate for the applicant and Shri A.D. Sonak, Additional Public Prosecutor for the non-applicant.

2. The applicant is seeking pre-arrest bail apprehending arrest in crime registered against him for offence punishable under Section 65(e) of the Maharashtra Prohibition Act, 1949.

3. The State Government has issued orders prohibiting sale of liquor in Chandrapur District.

4. Shri S.O. Ahmed, Advocate for the applicant has submitted that initially the First Information Report was lodged against unknown person, however, the applicant is implicated alongwith driver of the vehicle from which the stock of liquor is seized. It is submitted that the applicant has given the Matador on hire to Alim Majid Pathan by agreement dated 09-11-2015 and the

applicant is not concerned with the alleged illegal use of the vehicle for prohibited activities. It is submitted that the driver of the vehicle and the person from whom the liquor is alleged to have been purchased are released on bail. The learned Advocate for the applicant has submitted that the observations of the learned Additional Sessions Judge that the trolley of the Matador is modified in such a manner that about 500 boxes can be carried, are without any basis and the learned Additional Sessions Judge has committed an error in rejecting the application of the applicant, accepting such reason given by the Investigating Officer. Relying on the judgment given by the Hon'ble Apex Court in the case of ***Arnesh Kumar vs. State of Bihar and another*** reported in ***(2014)8 SCC 273***, specifically on paragraph Nos.7 and 11 of it, it is submitted that as the offence is punishable with imprisonment upto five years, the Investigating Officer cannot arrest the applicant unless the guidelines laid down in the above referred judgment are complied with.

5. With the assistance of the learned Advocate for the applicant and the learned Additional Public Prosecutor for the non-applicant, I have examined the documents placed on the record. It is undisputed that the Matador from which the stock of liquor has been seized is owned by the applicant. The investigation is going on.

Considering the facts on the record, I am not inclined to consider the prayer for grant of pre-arrest bail. The judgment relied upon by the learned Advocate for the applicant does not assist the applicant in the facts of the present case.

The application is dismissed.

JUDGE

pma