

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.611 OF 2016
(Rakesh s/o Parshuram Thakre vs. State of Maharashtra)

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

Shri N.A. Chauhan, Advocate for applicant.
Shri N.B. Jawade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : NOVEMBER 24, 2016

Heard learned Counsel for both sides.

This is an application for grant of
anticipatory bail by accused involved in Crime
No.199/2016 registered for the offences punishable
under Sections 65(e) and 83 of the Maharashtra
Prohibition Act and Section 188 of Indian Penal Code.

It is the case of applicant that he is falsely
involved as he was not present when contraband liquor
came to be seized from Maroti Wagon Car parked in
front of house of accused Imran Pathan. The applicant
has, however, admitted ownership of said car which,
according to applicant, was given in custody of
co-accused for his personal use as his wife was pregnant
and there was possibility of using that car for taking his
wife to Hospital in near future.

Shri Jawade, learned Additional Public
Prosecutor for respondent, has opposed the application
on the ground that there is nothing to establish under

what circumstances vehicle owned by applicant from which contraband liquor came to be seized was parked in front of house of co-accused. It is further contended that applicant is a habitual offender as prior to the present crime, he was involved in Crime No.81/2016 wherein he is on bail granted by this Court on 6/4/2016. It is, therefore, prayed that the application may be rejected.

Admittedly from the say of prosecution, it is found that apart from country liquor bottles found in the vehicle owned by applicant, liquor bottles were also recovered from one Maroti car, which was parked in front of house of Imran Pathan as well as from his house. There is nothing on record to establish, who is owner of Maroti 800 car. Admittedly, co-accused Imran Pathan is released on bail by trial Court.

Having considered the facts as aforesaid, two aspects need consideration – one is presence of applicant for the purpose of interrogation and second about involvement of applicant in Crime No. 81/2016. While considering these two aspects, it is found that applicant while being protected by interim bail by this Court on 16/9/2016 was directed to attend Investigating Officer for a period of one week from 19/9/2016. The learned Counsel for applicant makes a statement at bar that applicant has complied with the said condition. In that view of the matter, applicant since has attended Investigating Officer, whatever recovery had to be effected, must have been effected during the period of attendance of applicant before Investigating Officer.

Insofar as involvement of applicant in Crime No.81/2016 is concerned, admittedly that case must be pending till date. In that view of the matter, interim protection granted to applicant is liable to be confirmed by imposing further conditions as per order below :

Applicant shall attend Investigating Officer as and when called till filing of charge-sheet. Needless to say that if applicant's involvement is further found in contravention of any of the provisions of Bombay Prohibition Act or Section 188 of Indian Penal Code, he shall not be entitled for bail.

The interim order passed by this Court on 16/9/2016 is confirmed. The criminal application is disposed of.

JUDGE

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