

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

CRIMINAL APPLICATION (BA) NO.921 OF 2016

(Bharat Uttamrao Jivane ..vs.. State of Maharashtra, through PSO, PS Ballarpur, District Chandrapur)

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

Court's or Judge's orders

Shri A.V. Band, Advocate for applicant,
Shri V.P.Gangane, Addl.P.P. for non-applicant.

CORAM : P.N. DESHMUKH, J.
DATED : 13-12-2016

Heard Shri A.V. Band, learned Counsel for
applicant and Shri V.P. Gangane, learned Additional
Public Prosecutor for non-applicant.

By this application, accused involved in Crime
No.675/2016 registered by Ballarshah Police Station,
District Chandrapur for the offences punishable under
Sections 65(e) and 68(b) of the Maharashtra Prohibition
Act and under Section 188 of the Indian Penal Code, has
sought bail.

Learned Counsel for applicant has submitted that
though investigation is in progress and charge-sheet is
yet to be filed, no case can be made out against applicant
as according to the report, only involvement of applicant
is by way of he is being present on the spot, there is no
involvement of applicant and came to be arrested in this
crime without sufficient evidence against him.

Learned Additional Public Prosecutor has not disputed that applicant is not owner nor driver of Xylo vehicle bearing registration No.MH-34/AM-5806 involved in this case, however, submitted that applicant came to be arrested as on officers of raiding party when enquired with applicant about co-accused Nirmala, applicant misguided them saying that she was not in the village. However, on the raiding party members forcibly opening door of the house, she was found present in it. Thus involvement of applicant is only with regard to giving some information, which was contrary to the facts.

Perusal of report reveals that police received information that applicant by using his vehicle numbered as above was assisting to co-accused Nirmala Pinjarkar in sale of liquor which was transported in above numbered vehicle by him. Accordingly when raid came to be carried out, though above numbered vehicle was found present in front of house of co-accused, admittedly no contraband liquor is found recovered from such vehicle but 711 number of bottles containing 90 ml. country liquor in each of them came to be seized from the house of co-accused Nirmala.

Thus it is noted that no contraband liquor was recovered from Xylo vehicle which according to information is alleged to be used by applicant for

transporting liquor to co-accused Nirmala. Above information itself appears to be doubtful as admittedly applicant is in no way concerned with said vehicle No. MH-31/AM-5806 either as its owner or driver. Learned Additional Public Prosecutor makes a statement that above numbered vehicle in fact stands registered in the name of Anusaya Sadafale.

In that view of the matter, following order is passed.

Order

- (i) Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (ii) Applicant shall attend Investigating Officer as and when called till filing of charge-sheet.
- (iii) Applicant shall produce proof of his residence and shall update the same in the event of change in near future.

JUDGE