

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 CRIMINAL APPLICATION NO. 1891 OF 2017

JITENDRA S/O. BHILA NARALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Shri. C.R. Deshpande, Advocate, for applicants.

Shri. A.R. Borulkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 27 April 2017

ORDER:

1) The application is filed for grant of bail. Heard both the sides. A statement was made that this is the first application filed for bail in this Court. Papers of investigation were made available by the learned Additional Public Prosecutor.

2) Crime is registered on the basis of report given by the Police Officer of Dhule Taluka Police Station. This police officer had received information on 25-3-2017 that in village Kundane (War), Tahsil Dhule on the bank of river

Panzhara some persons were manufacturing illicit liquor and under different brands they were selling that illicit liquor. When the police party raided the spot, the accused were present on the spot. When search was taken, police recovered the articles and material used for manufacture of illicit liquor. Some bottles filled with liquor were also recovered and they were having different labels. The value of this liquor was more than Rs.1.11 lakh. Samples were collected and the accused were taken in custody. Submissions made show that since 25-3-2017 and 26-3-2017 the applicants are behind the bars.

3) The learned Additional Public Prosecutor submitted that though no death took place due to consumption of illicit liquor and there is no such record, the provision of section 328 IPC can be used though in the crime only sections 420, 482, 483, 486, 488 of the Indian Penal Code and section 65(a)(b)(c)(d)(e)(f) of the Bombay Prohibition Act are used. There is force in this contention. It is the case of the accused that there is no information that death took place due to consumption of this illicit liquor. Illicit liquor is always dangerous as there are no

standards maintained and there is possibility that person who consumes this liquor may die even immediately or suffer in other way after consumption of such liquor. On this point, learned counsel for the applicants has placed reliance on the order made by learned Single Judge of this Court at Principal Seat in **Criminal Application No.513 of 2007** (Balkrishna Vithal Rai v. The State of Maharashtra). The observations were for the purpose of grant of bail. There cannot be any precedent on the basis of such observation and even this Court may make some observations. But the fact remains that the Court is expected to keep in mind that there is always such probability.

4) Though there are aforesaid circumstances and as the applicants are behind the bars for about one month this Court holds that it is not desirable to keep the applicants behind the bars till disposal of the case which may be filed against them.

5) In the result, the application is allowed. The applicants are to be released on bail in connection with

Crime No.91/2017 registered at Dhule Taluka Police Station, District Dhule for offences punishable under sections 328, 420, 482, 483, 486, 488 of Indian Penal Code and section 65(a)(b)(c)(d)(e)(f) of the Bombay Prohibition Act on their furnishing Personal Bond of Rs.50,000/- (Rupees Fifty Thousand) by each of them with one or more solvent surety in the like amount. The applicants are not to tamper with prosecution witnesses. They are not to commit similar offences and they are not to leave Dhule District without prior permission of the Sessions Court Dhule till disposal of the case.

Sd/-
(T.V. NALAWADE, J.)

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