

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1792 OF 2017

1) MANISH @ MANYA GANGARAM PATIL)
2) YASH DAMODAR PATIL)
3) PRASHANT BUDHAJI ROKADE)
4) DEVIDAS JAGNATH PATIL)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ajit Savagave, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent – State.

Mr.A.A.Shah, A.P.I., Shil-Dyaghar Police Station, Thane City,
present in court.

CORAM : A. M. BADAR, J.

DATE : 10th OCTOBER 2017

P.C. :

1 By this application, applicants / accused in Crime No.I-
163 of 2017 registered with Police Station Shil-Dyaghar, Thane,
for the offence punishable under Section 328 of the Indian Penal
Code (IPC) and under Sections 65(e) and (f) of the Maharashtra
Prohibition Act, 1949, are seeking pre-arrest bail.

2 Heard the learned advocate for applicants/ accused. He submitted that except statement of the co-accused, there is no evidence against present applicants / accused. It is further argued that Section 328 of the IPC will not have application to the instant case. The learned advocate relied on the statement of co-accused Bhagwan Paswan and submitted that few accused were apprehended on the spot, but some of them fled from the spot. Interrogation of co-accused apprehended from the spot transpired that present applicants / accused are also indulging in illicit distillation of country liquor.

3 I have carefully considered the rival submissions and also examined the case diary. So far as applicant no.3 Prashant Rokade and applicant no.4 Devidas Patil are concerned, they are having criminal antecedents and on earlier occasion also, similar crimes were registered against them.

4 However, it appears that Section 328 of the IPC has no application to the case in hand because if according to the

prosecution case, as reflected in the First Information Record (FIR), a raid was conducted and police found some persons indulging in illicit distillation of country liquor. Police arrested accused named Bhagwan Paswan on the spot. He named present applicants / accused as persons who are owning the business of illicit distillation of country liquor.

5 At this stage, it cannot be said that for the purpose of examining complicity, statement of co-accused cannot be looked into. Applicant nos.3 and 4, namely, Prashant Rokade and Devidas Patil are having antecedents in respect of commission of similar offence. However, applicant no.1 Manish Patil and applicant no.2 Yash Patil appear to be students. Therefore, so far as they are concerned, considering the nature of offence and the fact that both of them are having no criminal antecedents, their custodial interrogation is not warranted. However, rest of the applicants, who are having criminal antecedents and history of commission of similar offences in past, the application deserves to be rejected. As such, the order :

ORDER

- i) The application is partly allowed.
- ii) In the event of arrest in Crime No.I-163 of 2017 registered with Police Station Shil-Dyaghar, Thane, for the offence punishable under Section 328 of the Indian Penal Code (IPC) and under Sections 65(e) and (f) of the Maharashtra Prohibition Act, 1949, applicant no.1 Manish Patil and applicant no.2 Yash Patil shall be released on bail on their executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount, by each of them.
- iii) Applicant no.1 Manish Patil and applicant no.2 Yash Patil shall shall not tamper with the evidence in any manner.
- iv) Applicant no.1 Manish Patil and applicant no.2 Yash Patil shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- v) Applicant no.1 Manish Patil and applicant no.2 Yash Patil shall attend the concerned Police Station on every 2nd and 4th Sunday, in between 11.00 a.m. and 1.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

vi) Application in respect of applicant no.3 Prashant Rokade and applicant no.4 Devidas Patil stands rejected.

vii) The application is disposed of accordingly.

(A. M. BADAR, J.)