

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

CRIMINAL APPLICATION (ABA) NO.625 OF 2017

Mangalsingh Takdarsingh Juni

..VS..

State of Maharashtra, thr. PSO PS Armori, District Gadchiroli

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

Court's or Judge's Order

.....
Shri Mir Nagman Ali, Counsel for the applicant.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 4, 2017.

This is an application for pre-arrest bail.

**Though the application is coming for the first time,
learned Additional Public Prosecutor Shri T.A. Mirza is fully
armed with the instructions and also he has tendered the reply
on behalf of the State which is taken on record.**

**According to learned counsel for the applicant,
cause for approaching the applicant before this Court is, since
he is apprehending his arrest in connection with Crime No.6104
of 2016 registered with Police Station Armori, District
Gadchiroli for the offences punishable under Section 65(E) of
the Bombay Prohibition Act, 1949 read with Sections 3 and 25 of
the Arms Act, 1959.**

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Learned counsel for the applicant has invited my attention to the compilation of the present application which shows that in the present crime the investigating officer has already filed charge-sheet vide charge-sheet No.48 of 2017 in the Court of law on 21.7.2017.

The first information report is lodged by Assistant Police Inspector Daulat Jayram Barsagade on 8.8.2016. As per the first information report, when he was present in the police station in connection with discharging his duties, he received a secret information from the secret informant that at Mouza Arsoda one Suraj is illegally distilling liquor from Mouwa flowers. Therefore, he along with other police personnels and two pahcha witnesses reached to the house of said Suraj at village Arsoda. Said Suraj was found to be present in his house. In his presence, when his house was searched, 4 liters Mouwa flower liquor was found to be restored in the said house. Therefore, the crime was registered against said Suraj.

As per the charge-sheet, it is also found that said Suraj was possessing a country made gun. According to the prosecution and as per the reply, said Suraj made his disclosure statement, after his arrest, in which he has stated that said gun belongs to the present applicant and, therefore, the present applicant was joined as an accused in the crime by adding relevant provisions of the Arms Act.

The memorandum statement of Suraj is at page No.39 of the compilation.

Perusal of the said statement would reveal that admissible portion of the said statement, alleged to have been made by Suraj, is totally silent that said gun belongs to present applicant. Thus, in absence of any admissible evidence to connect the present applicant in respect of said gun, in my view, *prima facie* the offence under the provisions of Arms Act cannot be made applicable against the present applicant. Further, it is not the case of the prosecution that in any way the present applicant is related to illegal distillation of Mouwa flower liquor.

In that view of the matter, the claim of the prosecution, that custodial presence of the applicant is necessary because the area falls in the Naxal affected area, cannot be entertained, since in absence of any admissible evidence or other evidence whatsoever in nature against the present applicant, personal liberty of a citizen cannot be allowed to be curtailed at the hands of the police. Hence, I pass the following order:

ORDER

- i) The criminal application is allowed.
- ii) Applicant Mangalsingh Takdarsingh Juni be released on bail on he executing a P.R. Bond in the

sum of Rs.25,000/- with one solvent surety of the like amount in connection with Crime No.6104 of 2016 registered with Police Station Armori, District Gadchiroli for the offences punishable under Section 65(E) of the Bombay Prohibition Act, 1949 read with Sections 3 and 25 of the Arms Act, 1959.

JUDGE

!! BRW !!

...../-