

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 738 of 2017
[Ashwin Ashok Hemke Vs. State of Mah., Bhadrawati PS, Distt. Chandrapur]

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Adv., for the applicant.
 Ms. Shamsi Haidar, APP for non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 21st November, 2017

The applicant apprehends his arrest in connection with Crime No. 918/17 registered at Bhadrawati Police Station, Distt. Chandrapur, for the offences punishable under Sections 65 (a) and 83 of the Bombay Prohibition Act, 1949, read with Section 188 of Indian Penal Code.

As per the report dated 21st September, 2017, a motorcycle was stopped during patrolling. Liquor worth Rs.1,60,000-00 was found to have been illegally transported. On that basis, the crime in question came to be registered. The statement of the owner of the vehicle came to be recorded and in that process, the name of the present applicant was revealed.

It is submitted on behalf of the applicant that merely on the basis of statements of the owner of the

vehicle and other accused persons, the present applicant is being implicated. Nothing is to be seized from the applicant herein and there is no reason, whatsoever, to implicate him. The only basis is the previous crimes registered against him. It is then submitted that even said aspect would not come in the way of the applicant in seeking protection as there is nothing incriminating found against him in the present crime.

The application is opposed by the learned Addl. Public Prosecutor by filing reply. It is stated that during investigation, it was found that the applicant used to pay Rs.500/- to the accused persons for bringing the liquor. Considering his antecedents and the fact that he was named by the owner of the vehicle, he is not entitled for protection.

Perused the report as well as the police papers.

In so far as seizure of the vehicle on 21st September, 2017 is concerned, the applicant was not apprehended on the spot. After making enquiries with the owner of the vehicle, the name of the present applicant came to light. Said owner of the vehicle has not been arrayed as an accused. Statements of the co-accused refer to instructions issued by the applicant for transporting the liquor.

Considering the fact that in the present crime, there is no substantial material found against the present applicant, the factor of antecedents would not dis-entitle the applicant from grant of protection. I am, therefore, inclined to continue the protection granted earlier.

In the event of applicant's arrest in connection with Crime No. 918/17 registered at Bhadrawati Police Station, Distt. Chandrapur, for the offences punishable under Sections 65 (a) and 83 of the Bombay Prohibition Act, 1949, read with Section 188 of Indian Penal Code., he shall be released on bail on furnishing a Personal Bond of Rs. 25,000/- [rupees twenty five thousand only] with one surety in the like amount. The applicant shall attend the concerned Police Station on 29th November, 2017 between 11.00 a.m., and 1.00 p.m. He shall not take any steps to influence the prosecution witnesses.

The observations made in this order are only for deciding the present application, which is allowed and disposed of.

Judge