

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

CRIMINAL APPLICATION (ABA) NO.749 OF 2017

1. Subhash Raghobaji Burande, Shivaji Nagar, Salve Colony, Tukum, Chandrapur
2. Raju s/o Tulshiram Atram, R/o Near Kalaram Mandir, Pathanpura, Ward No.1, Chandrapur

-vs-

State of Maharashtra, Thr. PSO, PS Korpana, Dist. Chandrapur

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

Court's or Judge's Orders.

Shri R. R. Vyas, Advocate for applicants.
Ms Geeta Tiwari, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : November 10, 2017

Heard.

The applicants apprehend their arrest in connection with Crime No.316/2017 registered with Police Station Korpana, Dist. Chandrapur for the offence punishable under Section 65(a)(e) and 83 of Maharashtra Prohibition Act.

Perused report dated 07/10/2017. The applicants who are the driver and conductor of said transport bus were proceedings towards Chandrapur. On getting information the raiding party stopped the bus at Parsoda. On opening the battery box of the said bus liquor bottles of Rs.21700 were found. On that basis offence came to be registered.

It is submitted on behalf of the applicants that the applicants have been unnecessarily implicated in the aforesaid offence. The battery box of the bus is situated at its exterior

and can be opened easily by anybody. The applicants cooperated with the raiding party. However they were asked to remain present on the next day before the Investigating Officer and hence took steps for seeking protection. The statements recorded subsequently indicating non-cooperation by the applicants, is by way of an afterthought. It is submitted that considering the services rendered by the applicants, they deserve to be protected.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that the liquor was found in the bus of which applicants were driver and conductor. Their custodial interrogation is necessary to find out from whom they had procured the same. Applicants instead of attending the Investigating Officer, on 08/10/2017 preferred to approach the Court. Hence they are not entitled for protection.

Perused the first Information Report as well as statements recorded by the Investigating Officer. The initial report dated 07/10/2017 does not refer to any non-cooperation by the applicants when the vehicle was being examined. The applicants were directed to attend the Police Station on the next date but they chose to seek protection under Section 438 of the Code. The statements recorded on the next day of the members of the raiding party indicate some sort of resistance for opening the battery box. These statements however are missing from the first report. No statement of any passenger has been recorded. Considering

the fact that the entire material have now been seized and applicants are in service, they are entitled for the protection subject to their co-operating with the investigation.

Accordingly, in the event of arrest of any of the applicants in connection with Crime No.316/2017 registered with Police Station Korpana, Dist. Chandrapur for the offence punishable under Section 65(a)(e) and 83 of Maharashtra Prohibition Act, they are directed to be released on bail on furnishing PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with one surety each in the like amount.

The applicants shall attend the concerned police station on 21/11/2017 between 11 am and 1 pm and thereafter as per the directions of the Investigating Officer.

The applicants shall not take any steps to influence the prosecution witnesses.

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

JUDGE