

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

CRIMINAL APPLICATION (ABA) NO.763 OF 2017

Gurubacchansingh s/o Premsingh Makkad, Gandhi Ward, Desaiganj, Dist. Gadchiroli

-vs-

State of Maharashtra, Thr. PSO, PS Desaiganj, Tah. Desaiganj Wadsa Dist. Gadchiroli

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

Court's or Judge's Orders.

Shri A. H. Lohiya, Advocate for applicant.

Ms Geeta Tiwari, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : November 20, 2017

Heard.

The applicant apprehends his arrest in connection with Crime No.385/2017 registered with Police Station Desaiganj, Dist. Gadchiroli, for the offence punishable under Sections 307 and 34 of the Indian Penal Code read with Sections 65(A), 99(C) and 83 of the Maharashtra Prohibition Act, 1975.

As per the First Information Report dated 19/09/2017, on the previous day an information was received that in a white colour four wheeler liquor was being transported and brought towards Desaiganj. A trap was accordingly laid at about 8.30 pm. Initially a two wheeler was found coming towards the raiding party. It was followed by white colour four wheeler. When the said four wheeler was signaled to stop, it was tried to be brought on the raiding party. That vehicle subsequently stopped and the occupants were arrested. Liquor of Rs.1,50,000/- was also seized.

It is submitted on behalf of the applicant that the applicant has been named in the report on the basis of statement of the co-accused. Applicant was not in any of the vehicles and he has been unnecessarily implicated in the offence. As the incriminating material has been seized, applicant is entitled for protection.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that on the instructions of the present applicant, the liquor was being transported. Statement of driver of the vehicle Swapnil indicates that the applicant had directed him that if the vehicle is sought to be stopped, the same should not be so stopped. It is therefore submitted that the applicant is not entitled for protection.

Perused the First Information Report as well as statements recorded. According to the prosecution, the applicant was not present at the spot but at his instructions, the liquor was being transported. The statement of the driver indicates that such instructions were given by the present applicant. Considering the fact that the applicant was not present in either of the vehicles, his custodial interrogation is not warranted. The occupants of said vehicle have been arrested and the stock in question has already been seized. The applicant can be directed to co-operate with the investigation.

Accordingly in the event of applicant's arrest in connection with Crime No.385/2017 registered with Police

Station Desaijanj, Dist. Gadchiroli, for the offence punishable under Sections 307 and 34 of the Indian Penal Code read with Sections 65(A), 99(C) and 83 of the Maharashtra Prohibition Act, 1975, he shall be released on bail on furnishing PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

The applicant shall attend the concerned police station on 30/11/2017 between 11 am and 1 pm and thereafter as per the directions of the Investigating Officer.

The applicant 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