

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

CRIMINAL APPLICATION (ABA) NO.797 OF 2016
(Suraj s/o Kumarswami Suramwar vs. State of Maharashtra)

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

Shri R.M. Tahaliyani, Advocate for applicant.
Shri N.B. Jawade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 11, 2017

This application is filed for bail before arrest in Crime No. 1252/2016 registered under Sections 65(e) and 83 of the Maharashtra Prohibition Act and Section 188 of Indian Penal Code.

According to Shri Tahaliyani, learned Counsel for applicant, since date of registration of crime, nothing has come on record establishing involvement of applicant muchless any transporting or importing contraband liquor within the prohibited District from outside District. It is contended that applicant is neither owner nor Driver of the vehicle involved in the present crime wherefrom liquor worth Rs.4,28,800/- came to be seized when it was found transported to Ballarshah.

Shri Jawade, learned Additional Public Prosecutor for respondent, has not disputed the fact that involvement of applicant is based on the statement of co-accused, who has stated that seized contraband was being transported for applicant. However, learned

Additional Public Prosecutor has admitted that there is no evidence collected on this aspect till date. It is also not disputed that even it is not yet ascertained as to who is the registered owner of the vehicle involved in this crime.

Though prosecution has opposed the application on the ground that there are 9 offences registered against the applicant, for which he is not entitled for bail, on perusal of chart, which forms part of the record by way of reply filed by Police before learned Sessions Court, it is revealed that said offences are under Indian Penal code. None of the offences is registered under the Maharashtra Prohibition Act.

Having considered the facts as aforesaid and since involvement of applicant in the present crime cannot be prima facie established, interim order issued by this Court on 13/12/2016 is liable to be confirmed as per order below :

Interim order dated 13/12/2016 passed by this Court stands confirmed on the same terms and conditions with further direction to applicant to attend Investigating Officer as and when called till filing of charge-sheet. The criminal application is accordingly allowed.

JUDGE

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