

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2102 OF 2017

Shri Gurmukh alias Kalu Kishanchand Dewani .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Kuldeep Patil, Advocate, for the Applicant
Mrs. A. A. Takalkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 117 of 2017 registered with the Kalyan Police Station (Rural), District – Thane, for the alleged offences punishable under Sections 65, 81, 83 & 97 of the Bombay Liquor Prohibition Act.

3. Learned counsel for the Applicant submits that the Applicant is sought to be falsely implicated in the said case. He submits that the Applicant was not present at the spot when the car was

intercepted nor did the vehicle / car belong to the Applicant.

4. Learned APP opposed the Application. She submitted that the statement of the driver and the cleaner of the vehicle recorded during investigation, clearly shows the complicity of the Applicant. She submits that the co-accused were in touch with the Applicant continuously. She submitted that CDR records have been collected to show that the co-accused i. e. driver / cleaner were in touch with the Applicant and that the Applicant was monitoring the movement of the vehicle. She further submits that the Applicant has three antecedents and that similar cases have been registered as against the Applicant i. e. two cases in 2014 and one case in 2017. She further submits that before the earlier bench (Coram : A. S. Gadkari, J.) the matter was argued and the matter was adjourned only to enable the Applicant to take instructions whether the Applicant intended to withdraw the Application or not and as such, was kept under the caption of 'withdrawal' and that the Applicant cannot argue the case now.

5. Perused the papers. According to the Complainant – Gangaram Sakharam Tambada (Police Naik) while he was on patrolling duty near Titwala temple on 04.10.2017, he found one Innova

car bearing registration No. MH-02/JP/7070, parked near a temple. According to the Complainant, he had received information that some persons were illegally carrying liquor bottles and some liquor bottles were lying in the said car. Pursuant thereto, the Complainant got the said car opened with the help of a local mechanic and found a box which contained some imported liquor bottles worth Rs. 4,71,840/-. Pursuant thereto, investigation commenced and co-accused – Dinesh Gadade & Dinesh Dodeja. It appears that during the interrogation of the said accused, they disclosed that it was the Applicant, at whose behest the said liquor was being procured. The CDR records also show that the Applicant was in continuous touch with the co-accused. The Applicant has three similar antecedents, being C. R. Nos. 553 of 2014, 671 of 2014 & 330 of 2017. The custody of the Applicant is necessary to find out from where the said bottles were purchased and where they were to be sold.

6. Considering the aforesaid, this is not a fit case to grant pre-arrest bail to the Applicant. Accordingly, the Application stands rejected.

7. It is made clear that the observations made herein are

prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)