

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

**Criminal Application [ABA] No.246 of 2018**

*Surajitsingh Ramusingh Patwa*

vs.

*State of Maharashtra, through P.S.O. Mul, District Chandrapur*

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

*Shri Shashibhushan Wahane, Advocate for the Applicant.*  
*Shri P.S. Tembhare, A.P.P. for the Non-Applicant/State.*

**CORAM : S.B. SHUKRE, J.**  
**DATE : 24<sup>th</sup> APRIL, 2018.**

Heard the learned Counsel for the applicant.

Perused the reply of the prosecution and the case diary.

On 11/04/2018, Shri B.H. Tekam, learned Counsel appearing for the applicant then, now he is no longer representing the applicant, made a statement that the contraband liquor was seized in this case from the room in exclusive possession of Darshansingh, the applicant's son and co-accused in this crime.

Darshansingh was granted bail by this Court on 6<sup>th</sup> March, 2018 on the ground that he was not in conscious possession of the contraband liquor, as there was no circumstance or material present on record, which showed that he was occupant of the house. Considering the submission made on behalf of the applicant, this court issued notice to Darshansingh to show cause as to why the bail granted to him may not be cancelled. The proceedings were also accordingly registered.

Today, Shri R.M. Partwardhan, learned Counsel appearing for the co-accused Darshansingh, in reply to the show cause notice, invites my attention to the stand taken by Darshansingh in paragraphs 5 & 6 of his application being Criminal Application [ABA] No.108/2008. This stand shows that according to Darshansingh, there was a family dispute between himself and his wife on the one hand and the other family members including his father Surajitsingh, the present applicant, due to which he along with his wife left the house occupied by Surajitsingh and started residing separately. He submits that this stand taken by Darshansingh was found to be with substance, as there was no material present in the case diary to show that at the time of the raid, Darshansingh was one of the occupants of the house in question.

On going through the case diary, I find that there is substance in the argument of Shri Patwardhan, learned Counsel for Darshansingh. There is no material present on record showing that Darshansingh was *prima facie* occupying the house at the time of the incident. It is also the case of the Investigating Officer/ Agency that this house belongs to the applicant Surajitsingh, the father of Darshansingh. If this is the case, there would be heavy burden upon Surajitsingh to *prima facie* establish that he had no knowledge of storage of contraband liquor in his house. But that has not been discharged by this applicant by showing some other probabilities. So, the *prima facie* presumption would be that this applicant has possessed the knowledge of presence of contraband liquor. Thus, there is a *prima facie* case made out

against this applicant.

Shri Wahane, learned Counsel for the applicant submits that if the contraband liquor has been seized, there is no need for any custodial interrogation of the applicant-Surajitsingh and as such he be granted benefit of anticipatory bail by this Court. I would have favourably considered the submission, had there been no criminal antecedents to this applicant-Surajitsingh. These criminal antecedents are indeed there, as seen from the reply of the prosecution. In Chandrapur District, there is a complete prohibition of liquor and, therefore, there are several persons, who, with a view to make fast money, indulge in illegal activity of bringing in contraband liquor within the limits of the Chandrapur District.

Considering this fact and the criminal antecedents, which comprise similar crimes, I am of the view that the possibility of this applicant repeating the same crime is not ruled out and, therefore, this application cannot be granted.

The application stands rejected.

The show cause notice issued to Darshansingh for cancellation of bail is recalled and the proceedings are filed.

**JUDGE**

*\*sandesh*