

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

CRIMINAL APPLICATION (ABA) NO.300/2018

Shrinivas s/o Chandrayya Bhimgani ..vs.. State of Maharashtra through PSO
P.S. Ramnagar, Chandrapur.

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

Court's or Judge's orders.

Mr. A. R. Samarth, Advocate for applicant.
Mr. V. P. Gangane, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : MAY 5, 2018

1. Heard Mr. Samarth, learned counsel for the applicant and Mr. Gangane, learned A.P.P. for the non applicant-State.

2. The present application is for grant of pre-arrest bail. The applicant is apprehending his arrest in connection with crime no.143/2018 registered with Police Station, Ramnagar, Chandrapur for an offence punishable under Section 188 of the Indian Penal Code and Sections 65-E and 83 of the Maharashtra Prohibition Act.

3. The learned A.P.P. tenders the reply on behalf of the prosecution which is taken on record. According to the reply, on 14.02.2018, a secret information was received by Police Station authorities that co-accused Pradeep Jaiswal has stored illegal liquor in his house and he is doing the

business of selling liquor in Chandrapur. On the basis of the information, raid was conducted at the house of the said Pradeep Jaiswal and during search, 35 boxes of contraband liquor were found in his house and 29 boxes of liquor were found from Toyota Innova car standing in front of his house. According to the prosecution, the present applicant is owner of this Toyota Innova car.

According to the learned counsel for the applicant, though he admits ownership over the said car, he submits that during that period the applicant was not in possession of the said Innova Car and it was in possession of his driver. Since, the applicant is owner of the said Innova Car and the car was in possession of his driver, it is crystal clear that the applicant was in constructive possession of the said Innova Car.

4. It is to be noted that insofar as the present crime is concerned, it is not the case of the prosecution that the said liquor was belonging to the present applicant.

5. Though, the application is opposed on the ground that there are 19 offences registered against the present applicant, in 18 offences, the applicant is already acquitted and the said fact is not disputed by the learned A.P.P.

6. Since, in the present crime, liquor was not belonging to the present applicant however the car belongs to the present applicant, the applicant can be released on

anticipatory bail on certain conditions. Hence, following order is passed.

ORDER

(i) Criminal Application No.300/2018 is allowed.

(ii) In the event of arrest in connection with crime no.143/2018 registered with Police Station, Ramnagar, Chandrapur for an offence punishable under Section 188 of the Indian Penal Code and Sections 65-E and 83 of the Maharashtra Prohibition Act, the applicant-Shrinivas s/o Chandrayya Bhimgani be released on bail on he depositing an amount of Rs.1,00,000/- in the Court of Chief Judicial Magistrate, Chandrapur, within 10 days from today. After the amount is so deposited in the Court of Chief Judicial Magistrate, the receipt of the same shall be produced before the Investigating Officer.

(iii) The amount so deposited by the present applicant shall be treated as *muddemal* property of Crime No.143/2018 and in any case the applicant shall not be entitled to withdraw the said amount. The learned trial Magistrate shall pass suitable orders for disposal of the said *muddemal* property after decision of the trial. During the pendency of the trial, in order to save the loss of interest, the learned Chief Judicial Magistrate shall invest the said amount of Rs.1,00,000/- in any nationalized bank, initially for a period of 3 years and subsequently shall

continue to renew the same.

(iv) If the amount of Rs.1,00,000/- is not deposited within 10 days from today in the Court of Chief Judicial Magistrate, Chandrapur, the present application shall be treated as dismissed.

(v) The applicant shall attend Police Station, Ramnagar, Chandrapur on 16.05.2018, 17.05.2018 and 18.05.2018 and shall be with the investigating officer from 11.00 a.m. to 05.00 p.m. and shall cooperate with the investigating officer.

With these directions, the application stands disposed of.

JUDGE

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