

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

CRIMINAL APPLICATION (ABA) NO.914/2017

Devendra s/o Janardan Nikose ..vs.. State of Maharashtra through Police
Inspector, Police Station, 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. J. S. Chilotra, Advocate for applicant.
Mr. M. K. Pathan, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : JANUARY 18, 2018

1. Heard Mr. J. S. Chilotra, Advocate for applicant
and Mr. M. K. Pathan, A.P.P. for non applicant-State.

2. In view of order dated 11.01.2018, Nilesh
Waghmare, Police Sub Inspector and Dhanraj Sayare,
Assistant Police Inspector are present in the Court. They
have filed their affidavits. The affidavits are taken on record.

3. A very sorry state of affairs is being observed by
this Court in respect of functioning of the Ram Nagar Police
Station, Chandrapur. On 19.12.2017, this Court granted an
interim anticipatory bail in favour of the applicant with a
direction that he shall attend Police Station 28.12.2017 and
05.01.2018 and shall be with the investigating officer
between 02.00 p.m. to 05.00 p.m. On the next date of
hearing i.e. on 11.01.2018, an affidavit in reply dated

08.01.2018 was filed on record. The said reply was sworn by PSI Nilesh Bhimrao Waghmare. In paragraph 6 of the said reply, it is stated on oath that though the present applicant was directed to attend the Police Station on 28.12.2017 and 05.01.2018, on both dates the applicant failed to remain present in the Police Station. On perusal of this reply, when the Court was about to dismiss the application, Mr. Chilotra, learned counsel for the applicant has pointed out that in fact the applicant has attended the police station not only on 28.12.2017 and 05.01.2018 but also on 22.12.2017 and he handed over a diary which was duly maintained by him and duly signed by API Dhananjay Sayare. The said diary was taken into custody by this Court. The diary clearly shows that the applicant has attended Police Station on three dates. Therefore, this Court has directed that API Dhananjay Sayare and PSI Nilesh Waghmare, shall remain present today. They are present today in the Court. In addition, the learned A.P.P. submitted that the investigating officer PSI Kapade is also present in the Court.

4. A very feeble explanation is given by the police officers of Ram Nagar Police Station. The affidavits of API Dhananjay Sayare and PSI Nilesh Waghmare are not satisfactory. Further, during the course of hearing, it is made known to the Court that PSI Kapade was also present in the Police Station on 28.12.2017, still when the applicant attended the Police Station, for the reasons best known to

him, he did not take any steps. It is tried to be pointed out to this Court that the present applicant has not attended the investigating officer. However, none of the police officers or the learned A.P.P. was able to point out that the applicant was knowing that the investigating officer is PSI Kapade.

5. In that view of the matter, the explanation is very feeble and the Court could have taken a very strict stand against each of the police officers. However, with a great persuasion from the learned A.P.P. Mr. Pathan and looking to the careers of the police officers coupled with the fact that for the first time such a lapse has occurred at their hands, this Court gives caution to each of them that in future they should not act in such a callous manner misleading the Court.

With this, insofar as these three officers are concerned, the matter is over.

6. Insofar as merit of the matter is concerned, the only allegation against the applicant is that the vehicle in which the illegal country liquor was found is owned by the present applicant. It is to be noted that the crime in question is dated 31.01.2017. Till today, the investigating officer has not done any investigation in the matter so as to pick up the culprit to face the tune of law.

7. Looking to the nature of the accusation made against the present applicant, in my view the applicant can be released on bail. Hence, following order is passed.

ORDER

(i) Criminal Application No.914/2017 is allowed.

(ii) In the event of arrest in connection with Crime No.268/2017 registered with Police Station, Ram Nagar, Chandrapur for an offence punishable under Section 65 (e) and 83 of the Maharashtra Prohibition Act and Section 188 of the Indian Penal Code, applicant-Devendra Janardan Nikose be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in like amount.

(iii) The applicant shall attend Police Station, Ram Nagar, Chandrapur on 19.01.2018 and 20.01.2018 and shall be with the investigating officer between 11.00 a.m. to 01.00 p.m.

(iv) The diary maintained by the applicant be returned to the learned counsel for the applicant forthwith.

The application is disposed of accordingly.

JUDGE