

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

CRIMINAL APPLICATION (ABA) NO.921/2017

Shailendra @ Sonu Rajendra Jaiswal ..vs.. The State of Maharashtra
through PSO P.S. Ramnagar, Tq. Dist. 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. Sambre, Advocate for applicant.

Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 8, 2018

1. Heard Mr. A. Sambre, Advocate for applicant and
Mr. N. B. Jawade, A.P.P. for non applicant-State.

2. The applicant is apprehending his arrest in
connection with Crime No.1153/2017 registered with Police
Station, Ramnagar, Chandrapur for an offence punishable
under Sections 65 (A) and 83 of the Maharashtra Prohibition
Act read with Section 188 of the Indian Penal Code.

3. According to the FIR, it is alleged that on
21.07.2017 while the police party was on patrolling duty,
they got a secret information that in one Tata Sumo bearing
registration No. MH-34/AM-1226 is carrying country liquor
illegally in Chandrapur District. On getting such information,
the said vehicle was stopped in front of Swad Hotel, Bangali
Camp, Chandrapur. At that time, the driver ran away from
the spot. The liquor was found in the said vehicle which is
already seized.

4. According to the reply filed by the prosecution, during the course of investigation, the owner of the vehicle was traced out as Yuvraj Meshram. He disclosed that the vehicle was sold to one Irshad Jabbar Sheikh. Subsequently, the said Irshad Shaikh was arrested. During the course of interrogation, he disclosed the name of the present applicant that he is supplying the liquor.

5. The material that is sought to be used against the present applicant is the statement of the co-accused, which is clearly inadmissible in the evidence. At the most, it can give a lead to the investigating officer against the other accused persons. However, it is the duty of the investigating officer to procure independent admissible material against the present applicant.

6. In the present case, the learned A.P.P. could not point out any independent admissible evidence against the present applicant. Thus, the entire case of the prosecution is based on the statement of the co-accused only.

7. In that view of the matter, following order is passed.

ORDER

(i) Criminal Application No.921/2017 is allowed.

(ii) In the event of arrest in connection with Crime No.1153/2017 registered with Police Station, Ramnagar, Chandrapur for an offence punishable under Sections 65

(A), 83 of the Maharashtra Prohibition Act read with Section 188 of the Indian Penal Code, the applicant-Shailendra @ Sonu Rajendra Jaiswal be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.

(iii) The applicant shall attend Police Station, Ram Nagar, Chandrapur on 12.01.2018, 13.01.2018 and 14.01.2018 and shall be with the investigating officer from 03.00 p.m. to 05.00 p.m.

(iv) If the applicant fails to attend the Police Station, it will be open for the investigating officer to file an application for cancellation of bail.

(v) The observations made in this order are prima facie in nature and they are made only for the limited purpose for considering the application for anticipatory bail. The learned trial Court shall not get influenced by the observations made in the order.

The application stands disposed of accordingly.

JUDGE