

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

Criminal Application (ABA) No. 302 of 2019

Amit Kotangale

Vs.

State of Mah. Through P.S. Bhadrawati 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.C.R. Thakur, Advocate for applicant.
Mr. M.J. Khan, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JUNE 20, 2019

The applicant herein has approached this Court seeking anticipatory bail in respect of FIR dated 21/07/2018 pertaining to the offences under Sections 65-A and 83 of the Maharashtra Prohibition Act, 1949 and Section 188 of the Indian Penal Code. It is pointed by the learned counsel appearing for the applicant that he is not even named in the FIR and there are two accused persons named in the FIR. It is the case of the prosecution that those two persons were found with liquor being transported in District Chandrapur where there is prohibition.

2. The reason why the applicant is sought to be proceeded against for the said offences is that he is owner of the vehicle in which the contraband liquor was found and the two named accused persons were travelling in the same at the time of the incident.

3. The applicant contended that although he is owner of the vehicle, he had entered into an agreement dated 03/07/2018 with one of the named accused persons for giving the said vehicle on rent for the period between 03/07/2018 to 29/06/2019. A copy of the notarized agreement has also been placed on record before this Court. It is contended that since the applicant had given said vehicle on rent, he could not be held responsible for the alleged offences, since it is not even the case of the prosecution that either the liquor belonged to him or that the named accused persons were transporting the same at his behest.

3. The Sessions Court in the present case rejected the application for grant of anticipatory bail of the applicant on the ground that the agreement in question did not bear signatures of witnesses and that the applicant himself had applied for releasing the vehicle on supratnama. It is pointed out by the learned counsel for the applicant that this could not be a cogent reason for rejecting the application for grant of anticipatory bail.

4. On 25/5/2019, this Court while issuing notice granted ad-interim protection to the applicant in the following manner.

“Heard learned counsel for the applicant and learned Additional Public Prosecutor for the State.

2. Learned Additional Public Prosecutor seeks time to file reply.

3. The applicant apprehends his arrest in Crime No. 510/2018 registered with Police Station, Bhadrawati, Tah. Bhadrawati, District Chandrapur for the offences punishable under Sections 65(A) and 83 of the Maharashtra Prohibition Act and Section 188 of the Indian Penal Code. The allegation against the applicant is that he is the owner of vehicle bearing No. MH-31-DC-6280 which was found carrying contraband. His pre-arrest bail was rejected by learned Additional Sessions Judge on the ground that the applicant is the owner of the vehicle and the agreement for rent does not bear signature of any witness.

4. Learned counsel for the applicant submits that the main accused in this case have already been released on regular bail. The vehicle was given on rent to the main accused. The said agreement of rent is also the part of this record. In view of the above and the role attributed to the present applicant, the applicant is entitled for interim protection. I pass the following order.

ORDER

In the event of arrest of the applicant, he be released on interim bail on execution of P.R. bond and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand Only) on following conditions.

(a) The applicant shall not tamper with the evidence or the prosecution witnesses.

(b) The applicant shall make available himself before the Investigation Officer as and when required.

Stand over to 6-6-2019.”

5. Although, the learned APP appearing on behalf of the non-applicant State has opposed the

present application, the material on record particularly the agreement dated 03/07/2018, prima facie, at this stage indicates that the vehicle in question was given on rent by the applicant to the named accused persons. As noted above, the applicant was not even named in the FIR. Therefore, case for grant of anticipatory bail is made out by the applicant.

6. Accordingly, present application is allowed in terms of ad-interim protection granted by this Court on 21/05/2019, quoted above. It is reiterated that the applicant shall co-operate with the investigation and he shall make himself available before the Investigating Officer as and when required.

JUDGE