

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

Criminal Application (ABA) No. 405 of 2019

Mahesh Lingam Balgamwar

Vs.

State of Maharashtra

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

Court's or Judge's orders

Mr. A.A.Dhawas, Advocate for the applicant.
Mr.V.P.Maldhure, APP for the non-applicant.

CORAM : MANISH PITALE, J.

DATED : AUGUST 8, 2019

The applicant has approached this Court apprehending arrest in connection with FIR dated 27.5.2019, whereby offences under Section 65 (e) and 83 of the Maharashtra Prohibition Act, 1949 have been registered. The name of the applicant does not feature in the FIR and it is not even the case in the complaint that he was found at the spot when the contraband liquor was intercepted.

2. On 27.6.2019, this Court issued notice and granted ad-interim protection to the applicant making the following observations:

“4. The applicant herein is apprehending arrest in respect of FIR dated 27.05.2019 registered for offences under Sections 65(e) and 83 of the Maharashtra Prohibition Act, 1949. In the said FIR, two persons are named as accused, while the name of the

applicant does not feature. The allegation is that liquor worth Rs.7,50,000/- was being illegally transported in a vehicle in district Chandrapur, where there is prohibition. It is the case of the prosecution that the vehicle in question is owned by the applicant and that, therefore, he could be said to be involved in the said offences.

5. Considering the fact that the applicant is not named in the FIR as accused person and the named accused persons are said to have been released on regular bail, a case for grant of ad-interim protection is made out.

6. Hence, in the event the applicant is arrested in Crime No. 103 of 2019 registered in Police Station Pathari, district Chandrapur, he shall be released on bail on furnishing P.R. bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount. The applicant shall attend Police Station Pathari, district Chandrapur once a week i.e. on Sunday between 10 a.m. and 5 p.m.. The applicant shall cooperate with the investigating agency and he shall not tamper with the evidence or influence witnesses".

3. It is submitted by learned counsel for the applicant that as per the direction given by this Court, the applicant has indeed attended the police station and that he has cooperated with the investigation.

4. On the contrary, learned APP has opposed this application and stated that while the applicant has

attended the police station, he has given evasive answers and he has refused to produce documents of the vehicle in which the contraband liquor was intercepted. According to the non-applicant/State, the said vehicle was owned by the applicant herein.

5. Considering the fact that the applicant has been attending the police station, as directed by this Court and also the fact that the other co-accused persons have been granted bail, coupled with the fact that the name of the applicant was not mentioned in the FIR and he was not at the spot of the incident, this Court is of the opinion that this application deserves to be allowed. Additionally, there is nothing stated in the reply filed on behalf of the non-applicant/State that there are any criminal antecedents of the applicant.

6. In view of the above, the present, application is allowed and the applicant is granted anticipatory bail by confirming the ad-interim protection granted by order dated 27.6.2019. In addition to the conditions imposed while granting ad-interim protection, it is further recorded that if the applicant is found to have indulged in any activity whereby the offence under the provisions of the Maharashtra Prohibition Act, 1949 is registered against the applicant, the bail granted to him will be liable to be cancelled.

JUDGE