

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

CRIMINAL APPLICATION (ABA) NO.589/2019

Prashant s/o Bajrang Ambatkar .vs. State of Maharashtra through PSO P.S.
Padoli, 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 : SEPTEMBER 18, 2019

At the beginning, Mr. Sambre, learned counsel for applicant tenders an affidavit for which he has sought time on 11.09.2019. That affidavit is taken on record.

The applicant is apprehending his arrest in connection with Crime No.149/2019, registered with Police Station, Padoli, Dist. Chandrapur for an offence punishable under Section 65 (e) and 83 of the Maharashtra Prohibition Act and under Section 188 of the Indian Penal Code.

Perused reply filed on behalf of prosecution. As per the reply, on the basis of a secret information received by Police Constable Vijay that one Piyush Jain resident of Chandrapur was in possession of stock of country liquor and foreign liquor at his coal godown a raid was made. That time, one Timayya, a security guard was present. He informed that keys of the godown are with Piyush Jain. Thereafter, as per reply, police officers contacted the said Piyush Jain on his cellphone and directed to remain present

on the spot along with keys. In spite of that, said Piyush Jain failed to come on the spot and therefore lock was broke open and the contraband was seized. According to the reply, owner of said godown states that contraband belongs to the present applicant and the said Piyush Jain has rented the said godown to him.

The application is also opposed on the basis of past criminal record.

Learned counsel for the applicant pointed out an affidavit tendered today thereby showing that the applicant is either acquitted or discharged from seven offences. To a query made to the learned A.P.P. as to whether the State has filed any appeal against acquittal or any proceedings challenging discharge, empathetic reply from the learned A.P.P. was, "No". Thus, the investigating officer deliberately has pointed out in the affidavit that the offences are pending against him, though applicant is either acquitted or discharged. It is not expected from the investigating officer to file such an affidavit.

Insofar as offence at serial nos.8 to 12 are concerned, the affidavit states that those are pending on the file of competent criminal Court.

Merely because there are criminal antecedents that itself is not sufficient to reject the application for anticipatory bail especially when in the crime in which the applicant is claiming anticipatory bail, there is no admissible evidence against him.

This Court on 26.08.2019 granted ad interim protection in favour of the applicant.

In view of the fact that there is no admissible evidence against the present applicant, the applicant can be released on anticipatory bail. Consequently, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.149/2019, registered with Police Station, Padoli, Dist. Chandrapur for an offence punishable under Section 65 (e) and 83 of the Maharashtra Prohibition Act and under Section 188 of the Indian Penal Code, applicant-Prashant s/o Bajrang Ambatkar be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Padoli, Dist. Chandrapur from 20.09.2019 to 27.09.2019 and he shall be with the investigating officer from 11:00 a.m. to 03:00 p.m.

The application is disposed of.

JUDGE