

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

CRIMINAL APPLICATION (ABA) NO. 708 OF 2019

Shreeniwas alias Sinu Shriram Kolawar .Vs. State of Maharashtra,through
P.S.O, P.S. Brahmapuri, Tah. and 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. R.M. Tahaliyani, Advocate for applicant.
Mr. M.J. Khan, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.
DATED : NOVEMBER 25, 2019

Heard Mr. Tahaliyani, learned counsel for the applicant and Mr. Khan, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.672/2019 registered with Police Station, Brahmapuri, Tahsil and District Chandrapur for an offence punishable under Sections 65(a), 82 and 83 of the Maharashtra Prohibition Act and under Section 188 of the Indian Penal Code.

The applicant was protected by this Court by order 16.10.2019 with a condition that he shall attend police station on the dates specified in the said order. The applicant has already attended the police station and extended his full cooperation to the investigating officer, is the submission made by the learned Additional Public Prosecutor for the State.

Today the learned Additional Public Prosecutor has tendered additional affidavit on behalf of the prosecution, which has been taken on record.

As per prosecution case Ganesh Namdeo Chalkh, a Police Head Constable, Police Station, Brahmapuri lodged a report wherein it is stated that he received a secret information on 20.09.2019 that on 21.09.2019 one Pyarsingh alias Pyaru Juni, co-accused is bringing liquor in Chandrapur district in which there is prohibition. It is also prosecution case that said Pyaru Juni has purchased the liquor from the present applicant. Accordingly, as per the prosecution case the vehicle was intercepted on 21.09.2019 at about 05:00 a.m. On search of the said vehicle 42 boxes of country liquor were found worth of Rs.10,00,000/- (Rupees Ten Lakhs only). According to the prosecution case, the said liquor was purchased by Pyarsingh from present applicant.

It is to be noted here from the reply filed and also from the additional affidavit that the present applicant is having FL-III license for Pawani village situated in Bhandara district. The reply, additional affidavit would show that the investigating agency, after verifying documents submitted by the present applicant and also from batch number of the boxes as well as bottles which were seized during the seizure is not from licensed vend of the present applicant.

In my view, thus merely because applicant is having past criminal record, his personal liberty cannot be curtailed when there is no contraband which was seized in Chandrapur district was purchased by Pyarsingh from the

present applicant. In view of the above, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.672/2019 registered with Police Station, Brahmapuri, Tahsil and District Chandrapur for an offence punishable under Sections 65(a), 82 and 83 of the Maharashtra Prohibition Act and under Section 188 of the Indian Penal Code, applicant - Shreeniwas alias Sinu Shriram Kolawar 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) Applicant is directed to attend Police Station, Brahmapuri, Tahsil and District Chandrapur as and when called by the investigating officer. However, for that the investigating officer shall give clear cut two days prior written communication to the applicant, till filing of the charge-sheet.

The application is disposed of.

JUDGE

srwagh