

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

CRIMINAL APPLICATION (ABA) NO. 748 OF 2019

Rajendra s/o Makhru Bhoyar .Vs. State of Maharashtra,through P.S.O, P.S.
Gadchiroli, Tah. and Dist. Gadchiroli.

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

Court's or Judge's orders.

Mr. A.C. Jaltare, Advocate for applicant.

Mr. S.M. Ghodeswar, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 20, 2019

Heard Mr. Jaltare, learned counsel for the applicant and Mr. Ghodeswar, learned Additional Public Prosecutor for the State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.475/2019 registered with Police Station, Gadchiroli, Tah. and Dist. Gadchiroli for an offence punishable under Sections 65(a) and 83 of the Maharashtra Prohibition Act.

On 26.09.2019, a crime came to be registered on the complaint lodged by Muneshwar Meshram, Assistant Sub Inspector of Police, Police Station, Gadchiroli. In the complaint it is disclosed that the police authority received secrete information that the present applicant- Rajendra and Kishor Bhoyar are transporting illicit liquor by stacking it under public water tank with an intention to sell the same. It

is to be noted here that transportation, possession and selling of any type of liquor is impermissible in the entire Gadchiroli district since the said district is declared as dry district.

In view of the secrete information when the police party made a raid on the specified spot they found that country liquor boxes were stacked. The worth of the said country liquor was Rs.2,59,000/-.

The State by filing reply pointed out to this Court that the applicant is habitual offender and is involved in four cases pertaining to Maharashtra Prohibition Act for the offence punishable under Sections 65(e) and 83. The learned Additional Public Prosecutor along with reply also annexed with a chart showing the pendency of six criminal cases. It shows that whenever the applicant is released on bail he has inclination to repeat the similar nature of offence.

On 29.10.2019, this Court granted ad interim protection in favour of the applicant on a condition that he shall attend police station on 30.10.2019 and 31.10.2019 and from 01.11.2019 to 07.11.2019.

The learned Additional Public Prosecutor upon instructions given to him by the investigating officer made a statement before this Court that the applicant did attend police station only on 01.11.2019. On this when the Court posed a question to the learned counsel for the applicant to show the diary maintained by the applicant to show his presence in the police station, the learned counsel for the

applicant was required to cut sorry figure stating that no such diary is furnished to him by the applicant.

Looking to the fact that the applicant is having inclination to repeat the offence and four offences of similar nature are already pending and the applicant is also not ready to join the investigation and has not attended the police station in spite of the direction given by this Court, in my view, the applicant is not a person in whose favour the law should extend any helpful hand to him. Consequently, I refuse to exercise the discretion under Section 438 of the Code of Criminal Procedure in favour of the applicant.

It will have to be observed here that since the applicant is having inclination to repeat the same offence and is not even ready to abide with the conditions imposed upon him by this Court, if applicant surrenders before the law and if he files an application for regular bail, the learned Judge of the Court below before whom the application will be moved, the learned Judge shall keep this aspect in mind.

The Criminal Application is rejected.

Needless to mention, the interim order granted on 29.10.2019 stands vacated.

JUDGE

srwagh