

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

CRIMINAL APPLICATION (ABA) NO.85 OF 2020

(Nitesh s/o Manohar Nawarkhede ..vs.. State of Maharashtra, through PSO, PS Chimur)

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

Court's or Judge's orders

Shri A.S. Ambatkar, Counsel for the applicant,
Shri S.S. Doifode, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 28-02-2020

The applicant, who has criminal antecedent, and is facing prosecution for offence punishable under the Maharashtra Prohibition Act, is apprehending arrest in Crime 421/2019 registered with Police Station Chimur for offences punishable under Section 279 of the Indian Penal Code and Sections 65(a) and 83 of the Maharashtra Prohibition Act.

2. The case of the prosecution is that on 14-11-2019 secret information was received that liquor would be transported in Mahindra Bolero vehicle bearing registration MH-30/BD-1316 from Jambhurghat Road towards Neri. The police squad waited at Jambhurghat Tea Point, the vehicle was spotted and the squad gave a chase. In the meanwhile, near the PHC Neri one vehicle Swift VDi MH-40-AR-4720 overtook the police vehicle and dashed against the police vehicle, in an obvious bid to prevent the police vehicle from chasing the vehicle

transporting contraband. The driver of the Swift vehicle fled. However, one passenger in Swift vehicle was apprehended from the spot. The said passenger disclosed that the present applicant was the driver who fled.

3. Mahindra Bolero vehicle was also intercepted and was found carrying huge quantity of country liquor which is meant for illegal sale in the area in which prohibition is enforced.

4. The learned Counsel for the applicant has two fold submissions. The first submission is that the only offence which can be alleged, if at all, against the applicant would be under Section 279 of the Indian Penal Code. The submission is noted only for rejection. The prosecution case is that the dash given to the police vehicle was intentional and the intent was to facilitate the vehicle carrying the contraband to escape. The applicant fled from the spot. The learned Additional Public Prosecutor Shri S.S. Doifode would submit that investigation is ongoing. The custodial interrogation of the applicant is necessary to unearth the various facets of the crime.

5. I am not inclined to grant blanket anticipatory bail.

6. Since the marriage of the applicant is fixed on 04-3-2020, the following order is passed.

Order

- (i) The application is allowed.
- (ii) However, as condition for anticipatory bail, the applicant shall remain in custody of the Chimur Police Station from 6-00 p.m. today till 6-00 p.m. on 02-3-2020, to enable the prosecution to effect any recovery under Section 27 of the Indian Evidence Act and to interrogate the applicant in custody.
- (iii) The applicant shall be released from custody at 6-00 p.m. on 02-3-2020.
- (iv) The applicant shall surrender before the jurisdictional Magistrate thereafter and seek regular bail.

7. Steno copy of this order be furnished to the learned Counsel for the applicant as per rules.

JUDGE

adgokar