

Pankaj Namdeo Chaudhari	...	Applicant
Age 31 years, Occu: Agriculture		
R/o Sakri Naka, Nandurbar		
Tq. & Dist. Nandurbar		

The State of Maharashtra, ... Respondent
Through Sub-Inspector,
State Excise Squad, Nandurbar
Tq. & Dist. Nandurbar

CORAM : V. G. BISHT, J.
DATE : 21st September, 2021

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.125/2021 registered with State Excise Department, Nandurbar, District Nandurbar for the offences punishable under Sections 65(a) (b)(c)(d)(e), 80, 83, 86, 90, 98(2) and 108 of Maharashtra Prohibition Act, 1949 and section 328 of the Indian Penal Code, 1860.

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the field. The said place was raided and various bottles of foreign liquors were seized from the possession of the said accused worth Rs.3,54,910/-. Offence accordingly came to be registered.

3. Mr. N. N. Desale, learned counsel for the applicant, submits that it is not the case of prosecution that the present applicant was also found on the spot when the raid was carried out. It is only on the basis of narration of main accused, with whom the applicant has no concern, he came to be roped in. None of the alleged offences can be said to have been made out against the applicant. Even otherwise, everything is allegedly seized from the spot itself and therefore, there is no question of custodial interrogation. This being so, the application deserves to be allowed, argued learned counsel.

4. Mr. V. S. Badakh, learned A.P.P., on the other hand, would oppose the submissions by contending that it was the applicant who was the owner of illicit liquor and is the main culprit. Similar offences are also registered against him. In such circumstance, the application deserves to be rejected, argued learned A.P.P.

5. The prosecution does not dispute that present applicant was not found on the spot when alleged raid was carried out. Although it is alleged that illicit liquor stock which came to be seized belong to the applicant, but no such material is forthcoming on record to connect the applicant with the illicit liquor which allegedly was seized from the spot.

6. Similarly, learned A.P.P. has given numbers of crimes which are registered against the applicant but the applicant is yet to be tried for those offences and held guilty or otherwise.

7. From the record itself, it is evident that all the alleged illicit liquor and other material were seized from the spot, thus ruling out the possibility of custodial interrogation.

8. I am also concerned with applicability of section 328 IPC. In the facts and circumstances of the case, I am sceptical of attraction of said section.

9. Be that as it may, I am inclined to allow the application with certain conditions. Hence, the following order:

O R D E R

- i. The application is allowed.
- ii. In the event of arrest of the applicant in connection with Crime No.125/2021 registered with State Excise Department, Nandurbar, District Nandurbar for the offences punishable under Sections 65(a) (b)(c)(d)(e), 80, 83, 86, 90, 98(2) and 108 of Maharashtra Prohibition Act, 1949 and section 328 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs. 25,000/- [Rs. Twenty five thousand only], with one or two solvent sureties in the like amount.

- iii. The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iv. The applicant shall not tamper with prosecution evidence in any manner.
10. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC