

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 815 OF 2021

Shri Pankaj s/o Namdeo Chaudhari ...Applicant

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicant : Mr. Nilesh N. Desale

APP for the Respondent – State : Mrs. V. S. Choudhari

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CORAM : V. G. BISHT, J.

DATE : 20th SEPTEMBER, 2021

PER COURT :-

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.284/2021, registered with Nandurbar Upnagar Police Station, District Nandurbar for the offences punishable under Sections 65(e) of the Maharashtra Prohibition Act, 1949 and 328 of the Indian Penal Code, 1860.

2. The prosecution case in short is that on 12.06.2021 at about 04.30 p.m. accused Ravindra Bhurya Walvi was found in possession of country and foreign liquor without any pass and

permit. Accordingly First Information Report came to be registered.

3. Mr. Nilesh N. Desale, learned counsel for the applicants, submits that as far as the present applicant is concerned, his name is nowhere disclosed in the F.I.R. It is only after the main accused Ravindra Bhurya Walvi revealed the name of applicant, he came to be roped in. The statement so given by main accused cannot be looked into. Moreover the applicant is a permanent resident of the same village and there is no possibility of his fleeing from justice. In such circumstances, application deserves to be allowed, urged learned counsel.

4. Mrs. V. S. Choudhari, learned APP for the Respondent - State, on the other hand, would oppose the submissions by contending that there are similar offences registered against the applicant and he being the habitual offender, the applicant does not deserve the benefit of pre-arrest bail.

5. A careful perusal of the F.I.R. would indeed reveal that the name of present applicant was not disclosed anywhere. It is also not the case of the prosecution that he was found in possession of illicit liquor or in any way was concerned with the possession of illicit liquor with the main accused.

6. As far as the criminal antecedents of the applicant are concerned, admittedly police papers show that various crime numbers are registered against them but in those crime numbers, the applicant is yet to be held guilty by the concerned Court.

7. For the aforesaid reasons, I do not find the necessity of custodial interrogation, however, the applicant can be directed to co-operate the investigation agency.

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

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant Pankaj s/o Namdeo Chaudhari herein in connection Crime No.284/2021, registered with Nandurbar Upnagar Police Station, District Nandurbar for the offences punishable under Sections 65(e) of the Maharashtra Prohibition Act, 1949 and 328 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only), with one or two sureties in the like amount.
- (iii) The applicant shall co-operate in the investigation as and when called by the Investigating Officer.
- (iv) The applicant shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed of.

**(V. G. BISHT)
JUDGE**