

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1659 OF 2021

Imran Jalal Momin
versus
State of Maharashtra

.... Applicant
.... Respondent

.....

- Mr.Nitin Sejpai, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th MAY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.I-681/2020 registered with Niphad Police Station, Nashik Rural, under sections 341, 395, 120-B of the Indian Penal Code. The Applicant was arrested on 15/12/2020 and since then he is in custody. The investigation is over and the charge-sheet is already filed.
2. Heard Mr.Nitin Sejpai, learned counsel for the Applicant and Ms.A.A. Takalkar, learned APP for the State.

3. The FIR is lodged by one Vikas Dajiba Shendge on 09/12/2020. He was a cleaner on the truck bearing No. MH-18-AA-8606. The driver was one Santosh Ghule. On 08/12/2020, the truck was loaded with 950 boxes of liquor worth Rs.59,00,000/-. They started from Dindori. The driver Santosh told the first informant to take the truck further till Mantha and that he would join him on the next day. The first informant started driving truck. His wife Sarika was with him. In the midnight, i.e. at about 01.15 a.m. on 09/12/2020, the truck was intercepted by an Ertiga car. About 6-7 persons got down from the car. They entered the truck. They made the first informant and his wife to sit in the Ertiga car. They took away the truck. They took the informant and his wife on the highway. They were taken to a secluded spot and they were threatened. After some time they went away. The informant then contacted his brother and lodged the FIR.
4. Learned counsel Mr.Sejpal submitted that there is no evidence against the Applicant.

5. Learned APP submitted that, there is statement of one Ajar Akbar Momin, which may show the Applicant's complicity in the offence. However, she submitted that, there were no antecedents against the Applicant.

6. I have considered these submissions. There are two eyewitnesses to the incident i.e. the first informant and his wife Sarika. They have similarly stated about interception of their truck and taking away of the truck with the liquor boxes. However, the Applicant is not identified in any identification parade to show that he was present at the spot or that he had taken part in that particular incident. There is no recovery at the instance of the present Applicant. The only evidence against him as pointed out by the learned APP, is that statement of the Applicant's brother. This statement shows that the Applicant was looking after affairs of Taj Ice Factory. The investigation reveals that the truck in question was taken within compound of Taj Ice Factory and it was being unloaded there. When the police reached and apprehended some persons, the Applicant was not amongst those persons who were arrested in Taj Ice Factory. Therefore at this stage, there is hardly any material against the

present Applicant to show his complicity or to show that he was present at the spot when the truck was forcibly taken away or that he was aware of the offence when the truck was unloaded in Taj Ice Factory. Considering this weak nature of evidence against the present Applicant, he deserves to be released on bail.

7. Learned counsel for the Applicant on instructions submitted that he will furnish local solvent sureties.
8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.681/20 registered with Niphad Police Station, Nashik Rural, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two local solvent sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)