

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

CRIMINAL APPLICATION (APL) NO.940/2021

Sanjay alias Shiva Sujith Sarkar .vs. State of Maharashtra, through PSO P.S.
Aheri, Tq. Aheri, 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. R. Fule, Advocate for applicant.

Mr. S. M. Ghodeswar, A.P.P. for respondent no.1.

CORAM : **V.M. DESHPANDE AND**
AMIT B. BORKAR, JJ.

DATED : **OCTOBER 1, 2021**

By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of First Information Report under Section 65 (A) and 83 of the Maharashtra Prohibition Act. The FIR came to be registered against the applicant and others with accusation that in Gadchiroli district, where sale of liquor is prohibited, liquor from wine shop, of which license is in the name of the applicant, was found to be carried out. Details of the liquor are mentioned in the FIR. The liquor, which was seized by the investigating agency is to the tune of Rs.7,77,700/-. It appears that the liquor consists of various brands of foreign liquor.

The applicant has, therefore, filed the present application challenging registration of the FIR. This Court, on 17.09.2021 issued notice to the non applicant. The investigating officer pursuant to the issuance of notice has filed reply dated 22.09.2020. In the reply, it is stated by the investigating agency that on 21.10.2020, during patrolling he received secret information that from Telangana State some

persons are transporting liquor in one silver colour Bolero car. He, therefore, laid trap and stock was seized. Arrested persons revealed name of applicant during interrogation. The investigating agency, in paragraph 4, has stated that present applicant is not cooperating with the investigating agency. The investigating agency had issued notice to the applicant on 27.06.2021 and requested to submit stock register but till filing of the reply, the applicant has not submitted the stock register for verification/investigation by the investigating officer. The reply also disclosed that the applicant is having criminal antecedents and the offence is pending.

We have carefully considered the allegations in the FIR and the reply filed by the investigating agency. From perusal of the material it appears that the applicant was prima facie found to be selling liquor in the area where sale of liquor is prohibited. Whether the applicant was selling the foreign liquor in the prohibited area through co-accused persons is the matter of evidence. At this stage, we cannot go through the same unless prosecution is given an opportunity to prove its case. We find no substance in the application. The application is therefore dismissed.

JUDGE

JUDGE