

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

919 BAIL APPLICATION NO.143 OF 2022

Prashant s/o Anil Khairnar, ...Applicant

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Shri A. K. Bhosle

Advocate for Respondent – State : Shri V. S. Badakh

...

CORAM : M. G. SEWLIKAR, J.

DATED : 24-02-2022

PER COURT :-

1. By this application the applicant is seeking his enlargement on bail in Crime No.200/2021 registered with Chikalthana Police Station, Aurangabad District Aurangabad, under Sections 328 of the Indian Penal Code and Section 65(a), 65(b), 65(c), 65(d), 65(e), 65(f), 80, 81, 83, 90, 108 of Bombay Prohibition Act.

2. The allegations in the FIR are that the informant received secret information that country liquor was being manufactured in the premises of Jai Jawan Sainik Police Bharti Purva Prashikshan Sanstha. It is run by Ashok Kisan Davale and his

associates by the name of Niraj Jagdish Choudhari, Vicki Jayantkumar Raghani, Amol Karbhari Bakal, Amol Subhash Chavan, Shaikh Vasim Shaikh and Hasan, Rakesh Kailas Yadav. Accordingly the Excise Inspector along with the staff raided the premises of Jai Jawan Sainik Police Bharti Purva Prashikshan Sanstha. The raiding party found that manufacturing liquor was going on. Raiding party found 7132 sealed bottles of liquor, bottling machines, package labels, 6 barrels for flooring wash etc. Accordingly search was taken. Applicant was found in one room. On the request of the Excise Inspector, the applicant opened all the rooms. On taking search 7,100 bottles were found. Accordingly the applicant was arrested.

3. Heard learned counsel Shri Bhosle for the applicant, Shri Badakh, learned APP for the State.

4. Learned counsel Shri Bhosle submits that applicant is a student in the said academy. He has produced bank statements indicating amount of Rs. 62,000/- has been transferred in the account of academy. He further submits that in the application for anticipatory bail filed by the Director of the Institute by the name of Ashok Dawle, Ashok Dawle has stated that applicant is a student. He further submits that as a student he was present in the premises. Other students had completed their course and

they had left the academy. He submits that entire investigation is over, only formality of presenting charge-sheet is remaining. He, therefore, seeks release of the applicant on bail.

5. Learned APP Shri Badakh submits that 7100 bottles were found near the applicant. He further submits that applicant was present in the premises of the alleged academy and he was in possession of the keys. He himself opened all the rooms. On taking search, large quantity of 7100 bottles of country liquor were found in all these rooms. Prima-facie there is evidence to show that the applicant was in possession of all these liquor bottles and he was manufacturing the country liquor.

6. I have given thoughtful consideration to the submission of both the counsel.

7. Applicant has produced bank statement indicating that applicant's father had transferred amount of Rs. 62,000/- indicating that the applicant was admitted in the academy as a student. Learned APP submits that an amount of Rs. 2000/- was transferred in the name of the applicant. Learned counsel Shri Bhosle submits that this amount was transferred in his name to make payment to fellow students. He submits that at the instance of accused Ashok Dawle this amount was transferred in

his account. Prosecution has recorded statement of one Jitendra Bhausaheb Kakde. This witness is running the business of making online payment and therefore, applicant had transferred amount of Rs. 1340/- in the account of this witness and this witness had paid the amount of Rs. 1340/- to the applicant. Prosecution could not collect any evidence to indicate as to what role the applicant led in the commission of alleged offence. There is no evidence to show that the applicant was involved in any of the manufacturing process. Admittedly, applicant was not the employee of Jai Jawan Sainik Police Bharti Purva Prashikshan Sanstha. According to the applicant and the documents produced on record it appears that applicant was the student of this academy. From the police papers it is seen that investigation is almost complete. Applicant has no criminal antecedents. He is not likely to commit similar offence again. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order :

ORDER

- (i) Bail Application No. 143 of 2022 is allowed.
- (ii). The applicant be released on bail P.R. bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with Crime No.200/2021 registered with Chikalthana Police Station, Aurangabad District

Aurangabad, under Sections 328 of the Indian Penal Code and Section 65(a), 65(b), 65(c), 65(d), 65(e), 65(f), 80, 81, 83, 90, 108 of Bombay Prohibition Act, on condition that he shall not tamper the prosecution evidence and shall remain present before the Court on the dates fixed during the trial.

(iii) It is clarified that the observations, made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]

shp/-