

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.179 OF 2022

PRASHANT S/O GAUDRAMLU BAIRAGONI
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. S. C. Bhosle, Advocate for applicant.
Mr. V. M. Kagne, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 08.03.2022

Pronounced on : 05.04.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.456 of 2021 registered with State Excise Flying Squad Department, Nanded, Dist. Nanded for the offence punishable under Sections 65(e), 80, 81, 83, 90 and 108 of Maharashtra Prohibition Act.

2. Heard learned Advocate Mr. S. C. Bhosle for the applicant and learned APP Mr. V. M. Kagne for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. The allegations are general in nature. The Sections under which the offence is registered are not applicable. No specific role is attributed to the applicant. Nothing has

been seized from him. The applicant is ready to abide by the terms of the bail.

4. Per contra, learned APP strongly opposes the application and submitted that raid was conducted by the Excise Department when they received the information that liquor is being illegally transported. In fact, the present applicant was driving Hyundai 120 Magna Four Wheeler Car bearing No.AP-25 AF-6363 and from that vehicle, in all, 720 bottles of liquor was seized, so also one mobile was seized. When the entire activity was going on, the accused fled away by taking advantage of darkness. The physical custody of the applicant is necessary, because it has been transpired that the liquor that was in the bottle was not of standard quality and it is furious liquor. Investigation has been done to that extent.

5. Perusal of the FIR would show that police had intercepted the vehicle and while the seizure activity was going on, the accused fled away from the spot by taking disadvantage of darkness. Now, he cannot take advantage of his own wrong or illegal activity. He is not denying that the said vehicle does not belong to him. The panchanama shows that, in all, 720 bottles of liquor were seized from the spot. The police papers also show that the sample was sent to the company whose label

was affirmed on the bottle. The company has certified that sample is not of the standard quality, which they maintain. It appears that it is furious liquor. Definitely, case is not made out to exercise the powers of this Court under Section 438 of the Code of Criminal Procedure in favour of such person, who has managed to flee away. Application, therefore, stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm