

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

915 ANTICIPATORY BAIL APPLICATION NO.171 OF 2021

PRATAP TARACHAND PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Z. H. Farooqui h/f Mr. Gaware
Niteen V.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 30.08.2022

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant is on interim bail since 24.02.2021. The learned counsel for the applicant would submit that the charge sheet has been filed. The chemical analysis report is not adverse against him. He has been falsely implicated in the crime. He was not in the possession of the so called country liquor and the material seized by the police. The police are repeatedly lodging same type of reports against the applicant. Section 328 of the IPC would not attract since none of the ingredients of the said Section are made out. Nothing is to be

recovered from the applicant. Hence, he may be released on anticipatory bail.

3. Learned APP has strongly opposed the application. He referred the Chemical Analyzer Report and would point out that the seized material contents 3% v/v and 7% v/v of ethyl alcohol. It is not a medicinal antiseptic and toilet preparation nor flavouring material. It can be used for distillation of intoxicating liquor. There are criminal antecedents against the applicant. Therefore, the application deserves to be dismissed.

4. It is a question that whether Section 328 would attract in such cases. The main allegation against the applicant is that he was producing the country liquor unauthorisedly. When the raiding party reached on the spot of the incident he fled away. The entire material lying there was seized. The Chemical Analysis Report does not disclose that the material allegedly used for manufacturing the country liquor is harmful to the life. Considering the allegations in entirety, prosecution has no reason for custodial interrogation. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) The interim protection granted to the applicant by the order 24.02.2021 stands confirmed on the same terms and conditions.

(S. G. MEHARE, J.)

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vmk/-