

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.302 OF 2022

RAJESHSINH S/O BHAGAVATSINH DINDAYAL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicant : Mr. K. C. Sant
APP for Respondents-State : Ms. Vaishali Patil Jadhav
.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
29-03-2022**

**Date of Pronouncing The Order :
19-04-2022**

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.55 of 2022, registered with Dhule Taluka Police Station District Dhule, for the offence punishable under Section 65 (e), 65(a), 80, 73 and 108 of Maharashtra Prohibition Act.
2. Heard learned Advocate Mr. K. C. Sant for applicant and learned APP Ms. Vaishali Patil Jadhav for respondents-State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. He is resident of Indore in Madhya Pradesh. He was the owner of the truck bearing No.MP-09/HF-9991 which has been seized in this case, but the applicant had given his vehicle on rent to one Pappusiha Raghunathsiha Dodiya by executing document on 21-01-2022. He had handed over the possession of his vehicle to said Pappusiha and there was a specific condition imposed in the contract that the vehicle should not be involved in any illegal activity otherwise it would be the responsibility of the second party i.e. Pappusiha. The applicant has no knowledge at all for what purpose the vehicle was put to use by said Pappusiha. The material that has been seized by the police does not belong to the present applicant. The said vehicle was having All India Permit, and the documents to that effect have been produced. As the offence is not committed by the present applicant and he had absolutely no knowledge that he was not present at the spot, his liberty need not be curtailed. He is ready to abide by the terms of the bail as nothing more is now required to be seized at his instances.

4. Learned APP strongly opposed the application and submitted that the FIR has been lodged by police constable attached to Dhule Taluka Police Station. Truck bearing No.MP-09/HF-9991 was seized on Surat-Nagpur Highway at Mukti Shivar. It was found that the vehicle was going towards Nawapur through Jalgaon Kholghat in Madhya Pradesh. When the vehicle was intercepted, driver by name Pappusiha Raghunathsiha Dodiya was present and in his presence as well as in the presence of two panchas, the vehicle was inspected. 255 cartons of liquor bottles containing 12 bottles each of 750 ml on which there is label of All Seasons Company Golden Collection Reserved Whiskey, was found. The amount of the muddemal was Rs.32,74,000/- and the truck that was seized was worth of Rs.10,00,000/-. After making inquiry, Pappusiha disclosed that the truck belongs to the present applicant and he then disclosed that the present applicant had given the truck in his possession and told him that he should take the said vehicle through Jalgaon-Dhule Road to Nawapur. When he was near Dhule at that time the applicant had contacted him and told that the vehicle should be delivered to one Pintu @ Gorakh Bhimrao Gadhari at Nawapur and two of the colleagues of said Pintu would come to receive him in Scorpio vehicle near Hotel 'Maa Karni'. He was therefore waiting for the said

Scorpio to come. Thus, it was a designed offence and therefore, the custodial interrogation with the applicant is necessary to know from where he had procured the liquor bottles and they were in fact brought within the jurisdiction of Maharashtra State without paying the necessary excise duty.

5. At the outset, it is to be noted that the seizure has already been effected, therefore, there is no question of any further seizure. It would be for the applicant to prove that he had given the said truck on rent to said Pappusiha Dodiya. Now, except the CDR and the statement of Pappusiha, there is nothing against the present applicant. The said information was provided by Pappusiha to police personnel on 28-01-2022 and that information has not been utilized by the police to make any further investigation. They cannot wait till the accused to come to them and the arrest of the accused persons. They ought to have raided the business premises of the accused immediately thereafter at Indore. Therefore, taking into consideration the fact that present the offences only under Section Maharashtra Prohibition Act have been registered, the custodial interrogation of the applicant is not necessary. He can be made available for the investigation, and therefore, the application deserve

to be allowed. Hence, following order.

ORDER

- 1) Application stands allowed.
- 2) In the event of arrest of the applicant Rajeshsinh s/o Bhagavatsinh Dindayal, in connection with Crime No.55 of 2022, dated 28-01-2022, registered with Dhule Taluka Police Station, Taluka and District Dhule, for the offences punishable under Section 65 (e), 65(a), 80, 83 and 108 of Maharashtra Prohibition Act, he be released on P.R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.
- 3) Applicant shall attend the Police Station on every Saturday in between 10.00 a.m. to 02.00 p.m., till filing of charge-sheet.
- 4) He shall not tamper with the evidence of prosecution in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.