

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.388 OF 2022

AMOL S/O SUBHASH CHAVAN
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. B. P. Pande, Advocate for applicant.
Mr. B. V. Virdhe, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19.04.2022

ORDER :-

. The applicant has been arrested in connection with Crime No.200 of 2021 registered with State Excise-A Department, Aurangabad Chikalthana Police Station, Dist. Aurangabad for the offences punishable under Sections 65(a), 65(b), 65(c), 65(d), 65(e), 65(f), 80, 81, 83, 90 and 108 of the Maharashtra Prohibition Act and under Section 328 of Indian Penal Code. He came to be arrested on 12.02.2022 and presently he is in magisterial custody.

2. Heard learned Advocate Mr. B. P. Pande for the applicant . In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that the State Excise Department had conducted raid at Adgaon (Bk.) Gut No.77, where there is an institution called “Jai Jawan Sainik Police Bharti Purva Police Prashikshan Sanstha” and it was found that certain persons were manufacturing or preparing bottles of liquor, which is stated to be furious. The police had found empty bottles, labels, cartons and other material for the packaging. It is then stated that the manufactured country liquor, 7132 sealed bottles of furious liquor, bottling machine were also found and since it is illegally manufacturing, the applicant booked under various sections.

4. The first and the foremost fact to be noted is that whether Section 328 of Indian Penal Code would be attracted in such facts of the case itself is a question in view of the decision of the Hon’ble Supreme Court in *Joseph Kurian, Philip Jose Vs. State of Kerala [(1994) 6 SCC 535]*. What then remains is the various provisions under the Maharashtra Prohibition Act though certain provisions of the same are warrant triable and prescribing punishment of 5 years imprisonment. The fact still remains is that those offences are required to be tried summarily by learned Judicial Magistrate First Class. The investigation appears to be almost over. Co-accused - Prashant Khairnar has been released by this Court on bail on 24.02.2022 in Bail Application No.143 of 2022.

Therefore, taking into consideration these facts, the applicant deserves to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The applicant – Amol Subhash Chavan, who has been arrested in connection with Crime No.200 of 2021 registered with State Excise-A Department, Aurangabad Chikalthana Police Station, Dist. Aurangabad for the offences punishable under Sections 65(a), 65(b), 65(c), 65(d), 65(e), 65(f), 80, 81, 83, 90 and 108 of the Maharashtra Prohibition Act and under Section 328 of Indian Penal Code, be released on P. R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- III) The applicant shall not tamper with the evidence of the prosecution in any manner.
- IV) He shall not indulge in any criminal activity.
- V) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm