

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

915 ANTICIPATORY BAIL APPLICATION NO.899 OF 2022

**SUNIL S/O. RAMBHAU WAGH
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Rathod Sandip P.
APP for Respondents State: Mr. V. M. Kagne

**CORAM : S. G. MEHARE, J.
DATE : 3rd AUGUST, 2022**

ORDER:

1. Heard learned counsel for the applicant and learned APP for the State.
2. The Excise Officer has raided three places belonging to the applicant. The seizure of liquor has been specifically described in the first information report (FIR). The FIR reveals that on a secret information, the Excise Department has raided one tin shed behind the Bar and Hotel of the applicant at Nillod Fata and seized the liquor bottles from the tin shed and registered a crime against the applicant.
3. Learned counsel for the applicant submits that in the raid, the Excise Officer did not find spirit. However, subsequently the prosecution has come with a new case that duplicate liquor has been stored and the Police want to know where from the applicant brought the spirit. The learned Advocate for the applicant has also argued that the applicant is the licence holder. He does no illegal business i.e. manufacturing of duplicate liquor. Prosecution has no prima facie case except the opinion

of the Excise Officer that the liquor seized is duplicate. The Excise Officer has already seized liquor from the tin shed and nothing is to be recovered from the applicant. Therefore, anticipatory bail may kindly be granted.

4. Learned APP has vehemently argued that empty drums were recovered from the spot of the incident. The said drums were of spirit. Therefore the prosecution wanted to know the source of supplier of the spirit that may be used for manufacturing duplicate liquor. He has also argued that veracity of the product has been done from the company of the liquor. They have submitted that it was not the liquor manufactured at their plant. Serious offence has been committed by the applicant. They were using spirit to prepare duplicate liquor. Therefore, custodial interrogation of the applicant is necessary.

5. Reading of the FIR, nowhere it is alleged that the applicant was manufacturing duplicate liquor. Only on the basis of empty drums, the Officer raiding the spot of the incident drew inference that the said drums were containing the spirit. The facts as have been mentioned in the FIR are related only to the seizure of the liquor with seal and having tags of various liquor companies. The excise officer has only suspicion that spirit has been used by the applicant but it has no substantial support.

6. The FIR reveals that it is simply a case of unauthorized stock of the liquor. Unless a chemical analysis report shows that it was duplicate liquor, barely on the suspicion, it cannot be believed that it is duplicate liquor. Be that as it may, considering the FIR, the court is of the view that the prosecution has no case for custodial interrogation of the applicant. Hence the applicant is entitled to anticipatory bail. Hence, the following order.

O R D E R

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant- Sunil Rambhau Wagh be released on bail on executing P.R. and S.B. of Rs.50,000/- with one solvent surety of the like amount in Crime No. 171 of 2021, registered with State Excise Department, District Aurangabad for the offences punishable under sections 328 of the Indian Penal Code and under sections 65-A, B, D. E. F, 81, 83, 90, 108 of the Maharashtra Prohibition Act, on conditions that the applicant shall attend the State Excise Department, Aurangabad as and when called on written notice.

(S. G. MEHARE, J.)

JPChavan