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

924 ANTICIPATORY BAIL APPLICATION NO.952 OF 2022

**GULAB DEVIDAS SHINDE
VERSUS
THE STATE OF MAHARASHTRA**

Mr N.L. Choudhari, Advocate for applicant;
Mr V.M. Kagne, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 2nd August, 2022

PC.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.

2. The learned counsel for the applicant would submit that the prosecution has no evidence to show that any material which is harmful to human life was recovered from the spot of the incident. The applicant is a politician, elected village panchayat member. His wife is Sarpanch. Hence, he has enmity not only in his village but in the nearby villages. He has vehemently argued that the applicant has been falsely involved in the similar offence time and again. The prosecution has no evidence that the stock where it was allegedly stored was the property owned by the applicant. One unknown person took the name of the applicant only with a view to involve him

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in the false crime. Considering the facts of the case, Section 328 of the Indian Penal Code would not attract. Rest of the offences are bailable. The first information report is vague. Therefore, the custodial interrogation of the applicant is not required.

3. The learned A.P.P. has vehemently argued that there is a direct evidence against the applicant that he is the owner of the liquor which was seized from the spot. The Investigation Officer revealed that few persons were preparing the duplicate liquor. They were filling the bottles. There were drums and the sealing machine. Huge quantity of the liquor has been seized from the spot. The person who has named the applicant is acquainted with him. He has correctly supplied the information. When he had supplied the information, he was not arrested. He was simply apprehended. Therefore, his statement is useful for the purpose of investigation. There are antecedents to the discredit of the applicant. Around three similar cases were registered against him. To know the source of the liquor supplier, the custodial interrogation of the applicant is necessary.

4. The learned counsel for the applicant has replied that out of five cases, in three cases the applicant has been acquitted. Therefore, it cannot be said that the applicant was involved in similar offence.

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5. Perused the first information report. In the first information report, time and again it has been mentioned that the material required to prepare the duplicate liquor was found. However, it was not described what was the said material. The first information report further reveals that various sealed bottles of the branded liquor were found. It has been alleged that three persons were preparing the duplicate liquor. That means, there must be some raw material to prepare the liquor. Again, the description of that material has not been given. Reading the first information report as a whole, it reveals that there was a stock of liquor of the branded companies and some refilling was going there. The prosecution has no evidence that a contraband harmful to human life was used. The prosecution has no evidence how the liquor was manufactured. There is also no evidence that the material used for manufacturing the liquor was harmful to human life. The first information report is vague as regards the alleged manufacturing of the duplicate liquor. In the circumstances, the applicability of Section 328 of the Indian Penal Code falls under the shadow of doubt. If this fact is considered in the case, at the most, the applicant may be charged for the unauthorized stocking of the liquor and the punishment therefor has been provided under the Maharashtra Prohibition Act. Since the prosecution case is

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unclear, the applicant may be released on anticipatory bail. Hence, the following order:-

- i) The application is allowed.
- ii) In the event of arrest, the applicant Gulab Devidas Shinde be released on bail on furnishing P.B. and S.B. of Rs.15,000/- with one solvent surety of the like amount, in C.R. No.153 of 2022, registered with Songir police station, Dhule, District Dhule, for the offence punishable under Sections 328 and 420 of the Indian Penal Code and Sections 65 (a) to (f) and 83 of the Maharashtra Prohibition Act, 1949, on conditions that he shall attend the police station on 5th, 6th, 7th and 8th August, 2022, between 10.00 a.m. and 1.00 p.m. and he shall co-operate with the investigation.

(S. G. MEHARE, J.)

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