

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 42 OF 2022

SNEHA
NITIN
CHAVAN

Digitally signed by
SNEHA NITIN
CHAVAN

Date: 2022.01.25
17:04:44 +0530

Manikgoud Shankargoud Pogul and Anr. ..Applicants

V/s.

The State of Maharashtra ..Respondent

Mr. Rahul Vijaymane for the Applicants.

Mr.R.M. Pethe, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 24 JANUARY 2022
(Through Video Conferencing)

P.C.

1. The Applicants apprehending arrest in connection with investigation of Crime No. 250 of 2021 of Police Station Salgarvasti, District Solapur, under Section 328 of IPC and Section 65(e) of the Maharashtra Prohibition Act, are seeking anticipatory bail.

2. The aforesaid offence is registered on the basis of the complaint lodged by Police Naik Pramod Gaikwad. According to the prosecution, the Applicants were found to be selling 'fruit beer' at about 16.00 hrs on 21.11.2021 in a public place. The said

fruit beer was seized and samples were sent for analysis. Some of the bottles were being sold after the expiry date.

3. I have heard the learned counsel for the Applicants and the learned APP.

4. It is submitted by the learned counsel for the Applicants that the offence under Section 328 of IPC is not made out and in any case, the nature of offence would not require custodial interrogation of the Applicants. It is submitted that in similar matters, this Court has granted protection.

5. The learned APP has produced the report of the Food Analyst dated 10.12.2021, in which the analyst has found that the sample of the 'fruit beer' does not confirm to the standard of beer as per the Food Safety and Standards Act, 2006 and the Food Safety and Standards (Alcoholic Beverages) Regulations, 2018 and were unsafe for human consumption.

6. I have considered the submissions made. A specific query was made to the learned counsel for the Applicants, to point out the order, by which in similar circumstances, according to the learned counsel, protection has been granted. However, no such order was produced.

7. In the present case, according to the prosecution, the Applicants were found selling 'fruit beer' in a public place after its expiry date and samples were found to be not confirming to the said Act and Regulations framed thereunder and unsafe for human consumption. The offence is serious and affecting the health of people in general. In such cases, it is necessary to investigate into the source of such items, their procurement and sale for which custodial interrogation may be necessary. Particularly, in the context of clear report of the Public Analyst, no case for grant of pre-arrest bail is made out.

8. The Criminal application is rejected.

(C.V. BHADANG, J.)