

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.319 OF 2022

Sanjay Malhari Date	...Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.Niranjan Mundargi a/w Mr.Veerdhaval Deshmukh, for the Applicant.

Mr.N.B. Patil, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 3 MARCH 2022

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P.C.

1. By this Application, the Applicant is seeking release on bail in Crime No.246 of 2021 registered with the State Excise Department under Section 328 of Indian Penal Code and Section 65(a)(b)(c)(d)(e)(f), 81,83 and 90 of the Maharashtra Prohibition Act.

2. The aforesaid Crime is registered on the basis of the complaint dated 12 October 2021 lodged by Lokesh Gaikwad, Inspector attached to the State Excise Department at Nashik.

3. According to the prosecution on 12 October 2021 a raid was conducted on prior information in field Gat No. 481/1 at Saikheda Shivar, Taluka-Nifad, District-Nashik of Kailash

Baburao Maid, Chandrakala Vilas Kawade and the present Applicant-Sanjay Malhari Date in which illicit liquor and other material for manufacture and branding of the liquor worth Rs.17,62,549/- was recovered. During the investigation it was found that certain muddemal property involved in the offence was kept at a house near the Toll Plaza at Madsangavi. Accordingly a raid was conducted at House No.12 wherein muddemal property worth Rs.3,37,253/- was recovered which was found to be belonging to one Amol Dhanaji Jadhav who is stated to be absconding.

4. On the basis of the complaint lodged the offence came to be registered and after investigation a charge-sheet is filed. The Applicant was arrested on 22 October 2021.

5. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused record.

6. It is submitted by the learned counsel for the Applicant that the Applicant is not connected with the alleged distillation of the illicit liquor and had no role to play in the commission of the offence. It is submitted that the provisions of Section 328 of IPC are not attracted, as there are no allegations that any unwholesome or stupefying substance was administered by the Applicant, much less, with an intention to commit an

offence. It is submitted that the co-accused have been granted anticipatory bail by this Court. It is submitted that the investigation is complete and the charge-sheet is filed and the further detention of the Applicant is not warranted.

7. The learned Additional Public Prosecutor has pointed out that the Applicant was found in possession of the said land along with one Dinesh Gaikwad and Rajesh Patil and others. It is submitted that about 33 items set out in Column No.13 of the charge-sheet have been recovered from the spot which not only indicates that the illicit liquor was being manufactured at a large scale, but there were also fake labels recovered from the spot which would go to show that there was an attempt to pass off the said liquor, as branded one.

8. The learned counsel pointed out that correspondence has been made to the concerned manufacturing companies and they have stated that the labels recovered from the spot are not genuine. It is submitted that looking to the scale of the offence and the recovery, the Applicant is not entitled to be released on bail.

9. I have considered the circumstances and the submissions made. It is not necessary to dwell on the question whether Section 328 of the IPC would be attracted, for the reason

that even the offence under Section 65 of the Prohibition Act attracts a minimum sentence of 3 years which may extend to 5 years.

10. I have carefully gone through the record and it appears that the material recovered from the spot (which is referred to as spot No.1) is of a substantial nature indicating the scale and the magnitude of the manufacture of the illicit liquor. Not only that there were also labels of the branded companies such as Imperial Blue, See-grams, Royal Stag and Goa No.1 which were found on the spot which the concerned companies have state to be fake which would go to show that there was an attempt to pass off the country liquor, as branded one.

11. Considering the overall circumstances, I do not find that this is a fit case for grant of bail. The Criminal Application is accordingly rejected. The trial is expedited. However, liberty is granted to the Applicant to renew the request for bail after a period of six months, if there is no progress in the trial.

C.V. BHADANG, J.