

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.301 OF 2022

Ambadas Vithoba Kharat	...Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Piyush Toshnival a/w. Mr. Aniket Nikam a/w. Mr. Amit Icham a/w. Mr. Vivek N. Arote, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent-State.

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CORAM : C.V. BHADANG, J.
DATE : 1 APRIL 2022

P.C.

. The Applicant who is one of the co-accused in Crime No.1049/2021 of Police Station Saykheda, District Nashik, under Section 328 and 420 r/w. 34 of IPC and Section 65(a),(b),(c),(d), (e),(f), 83 and 108 of the Maharashtra Prohibition Act, 1949, is seeking bail.

2. The prosecution case is that prior to 11 October 2021, the Applicant who is owner of *Udayraje Lawns and a marriage hall* had leased out the said hall to the co-accused Rajesh Patil who are

alongwith the other co-accused were found distillating illicit liquor in the said premises.

3. I have heard the learned counsel for the parties. Perused record.

4. There is a notarised Leave and License agreement dated 23 July 2021 between the Applicant and the co-accused Rajesh Patil about leasing out of the said marriage hall. A perusal of the said agreement and Clause (4) shows that it was given only for the purpose of conducting a legal business. The learned counsel for the Applicant pointed out that vide Clause (13), the responsibility for any illegal activities conducted in the said premises is on the Lessee.

5. In any event, it is not the prosecution case that the Applicant was manufacturing or distillating the illicit liquor. The allegation is that the Applicant has leased out the premises wherein the co-accused were distillating the liquor.

6. The learned counsel for the Applicant pointed out that Section 328 of IPC may not be attracted. That apart, under Section 3, 4, 5 and 6 of the Maharashtra Prohibition Act, the maximum punishment is upto five years.

7. The learned APP submitted that looking to the allegations, the Applicant may be responsible for abetting the offence as the Applicant may be beneficiary of the illegal business. It is submitted that the Applicant is residing adjacent to the marriage hall and thus cannot be said to be oblivious of any such illegal business.

8. Be that as it may, considering the over all circumstances and the nature of the allegations and further having regard to the fact that investigation is complete and the chargesheet is filed and the Applicant was arrested on 12 October 2021, I do not find any justification to detain the Applicant behind bars, pending trial.

9. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Ambadas Vithoba Kharat, be released on bail in Crime No.1049/2021 of Police Station Saykheda, District Nashik, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.

(v) Bail bonds to be furnished before the learned Sessions Judge.

C.V. BHADANG, J.