IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. ANTICIPATORY BAIL APPLICATION NO. 684 OF 2021

Atul Vijay Madan ..Applicant
Vs.
The State of Maharashtra ..Respondent

Ms. Veena Thadani i/b. Mr. Vishal Thadani, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent / State.

CORAM : C.V. BHADANG, J.
DATE : 14 FEBRUARY 2022

P.C.

. The Applicant, who is a proprietor of several licenced wine shops, apprehending arrest, in Crime No.240/2020 registered at the instance of State Excise Department, Nashik, under Section 65(a), 65(e), 77, 79, 81, 82, 83 and 108 of the Maharashtra Prohibition Act, 1949, is seeking anticipatory bail.

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

3. It appears that on 19 November 2020, at about 20.00 hours, a truck carrying country liquor was intercepted by Police Station Malegaon. It was disclosed during the course of investigation and

the statement of the driver that the goods were purchased from the present Applicant after which, the present crime came to be registered. The prosecution case is that the goods were being transported without a licence and the country liquor bottles, the excise duty was not paid.

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

5. It appears that the matter regarding the non payment of the excise duty was taken up in an Appeal before the Commissioner of State Excise, Maharashtra State, Fort, Mumbai and the Commissioner by order dated 4 October 2021 has found that the Applicant (Appellant before the Commissioner) had shown proof that the 3747 country liquor bottles were excise duty paid goods. The Commissioner has also found that the except this breach, all other breaches are of minor and compoundable nature. Thus, the Commissioner while allowing the Appeal subject to the condition of Appellant paying a composition amount of Rs.1 Lakh, has directed that criminal proceedings will continue and can be taken up to its logical conclusion.

6. The learned counsel for the Applicant submitted that the composition amount has been paid. She submitted that once the

aspect of the excise duty has been settled before the Commissioner, nothing remains in the matter as the Applicant is having a license for sale and transport of the said goods.

7. Learned APP has relied upon the C.A. report dated 10 May 2021 in which, although the goods have not been found to be adulterated, the Chemical Analyser has found certain discrepancies in the spectral, physical dimensions of letters / digits and logo and the trademarks on the bottles.

8. In my considered view, looking to the nature of the allegations and having regard to the fact that the issue as to the payment of the duty on the goods under Section 108 of the said Act, has been finally decided by the Commissioner and also having regard to the fact that the interim protection is operating since 11 March 2021, the Criminal Application can be disposed of, in terms of the said order which is made absolute, which shall be further subject to the condition that Applicant shall cooperate with the Investigating Agency and shall produce all such records as may be required and shall cooperate in the matter of investigation of the offence. The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.