

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2916 OF 2021

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Kailash Baburao Maind ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Niranjan Mundargi a/w. Mr. Veerdhaval Deshmukh for the
applicant.

Mr. R.M. Pethe- APP for the State.

CORAM : C.V.BHADANG, J

DATED : 11TH JANUARY 2022.

(THROUGH VIDEO CONFERENCING)

P.C. :

1. The applicant apprehending his arrest in connection with investigation of Crime No. 246 of 2021 registered with Excise Department, Nashik under section 328 of Indian Penal Code and under section 65, 81, 83 and 90 of Maharashtra Prohibition Act is seeking Anticipatory Bail.

2. The prosecution case is that the applicant was found distilling illicit liquor in Gat No. 481/1 at Saikheda, Tal-Niphad, District-Nashik owned by the applicant and Chandrakala Vilas Kawade.

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

4. It is submitted by the learned counsel for the applicant that the applicant is having his land in Gat No. 481 and not Gat No. 481/1, for which the applicant has produced a letter dated 1st November 2021 from the Electricity Board as well as the sale deed and the 7/12 extracts.

5. It is submitted that except the offence under section 328 of Indian Penal Code the remaining sections are bailable.

6. It is submitted that the offence under section 328 of Indian Penal Code cannot be made out as the applicant has not administered any unwholesome or stupefying substance to anybody with an intention of committing an offence.

7. The learned APP has placed reliance on the decision of this Court in the case of ***Vinod Ramnath Gupta v/s. State of Maharashtra***¹ in which this Court has held that even in such circumstances offence would fall within the ambit of section 328 of Indian Penal Code.

8. Be that as it may, without going into the question whether the offence would fall under Section 328 of Indian Penal Code, in the present case, it can *prima facie* be seen that the applicant is shown to be holding Gat No. 481 in which there was no distilling of any illicit liquor was found. Whatever recovery of the articles for distillation of the liquor has already been made and further custodial interrogation may not be necessary.

1 2020 SCC Online Bom 9230

9. In such circumstances, following order is passed.

ORDER

i) In the event of his arrest, in connection with the investigation of Crime No. 246 of 2021 registered with Excise Department, Nashik, the applicant shall be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

iii) In the event of breach of any of the conditions, the bail is liable to be cancelled.

iv) The Anticipatory Bail Application is disposed of accordingly.

(C.V.BHADANG, J)