

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.826 OF 2022

(DHARMENDRA SITARAM DAHARE....VS.. STATE OF MAH. THR. PSO PS RAWANWADI, DIST.
GONDIA)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.V.Rai, Advocate for Applicant.
Shri S.D.Sirpurkar, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : DECEMBER 12, 2022.

1. Heard.
2. By this application under Section 438 of the Code of Criminal Procedure the applicant is seeking pre-arrest bail in Crime No.351 of 2022, registered with Police Station, Rawanwadi, District: Gondia for the offences punishable under Sections 65(b), (c), (d) and (f) of the Maharashtra Prohibition Act, 1949.
3. In this crime spurious liquor was seized from the spot where five co-accused persons were found manufacturing and packing the same. The applicant was not at the spot. However, only on the basis of the allegation that, the process of manufacturing the liquor was going on behind a room, which was taken by the applicant on rent, he has been arraigned as an accused.

4. In addition to this ground, there are two offences which were registered against the applicant, which are cited by the learned A.P.P. to appose the present application.

5. This Court vide order dated 28/11/2022 granted ad-interim anticipatory bail to the applicant and directed him to attend Police Station as and when his presence is required.

6. During the said period, a statement of the applicant was recorded on 01/12/2022. However, it is in the nature of confession, which is not admissible.

7. Thus, it is clear that except the statement of a co-accused, there is nothing against the applicant. Hence, at this stage, I am of the opinion that custodial interrogation of the applicant is not necessary.

8. However, the purpose would be served if the liberty is granted to the State to file application for cancellation of bail if the Investigating Officer comes across any incriminating material which would *prima facie* connect the applicant with the alleged offence. Accordingly, I pass the following order:

- i) Criminal application is **allowed**;

- ii) The order dated 28/11/2022 granting ad-interim anticipatory bail to the applicant is confirmed.
- iii) The applicant shall attend the concerned Police Station as and when his presence is required.
- iv) Liberty is granted to the State to move for cancellation of bail, if so advised, in case the Investigating Officer comes across any incriminating material which would *prima facie* connect the accused to the alleged offence or he commits any similar offence.

The Criminal Application is **disposed of** accordingly.

JUDGE

RRaut.