

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1064 OF 2023

Amol S/O Deepak Jaiswal

Applicant

Versus

The State Of Maharashtra

Respondent

Mr. Rupesh Jaiswal, Advocate for the applicant.

Mr. S.R. Yadav Lonikar, APP for respondent.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th JULY, 2023

ORDER :

1. This is second anticipatory bail application of the applicant who is accused in Crime No. 81/2022, registered with State Excise Police Station, Kinwat, Division-B, under section 65(A)(B)(C)(D)(E)(F), 80,81, 83, 90, 108 of Maharashtra Prohibition Act and under section 328 of Indian Penal Code.

2. FIR is lodged by Balaji Pawar, Jawan, B.No. 11, State Excise, Kinwat Division, on 02.11.2022, alleging that on the basis of confidential information received on that date, he along with two panchas and other staff went to the Ardhapur to Waranga road and conducted raid. In the raid prohibited articles worth Rs. 10,83,060/- were found. Articles were seized and the crime is registered against the applicant and other co-accused. It

is alleged that the applicant has been indulging in similar or more serious crimes of violating the provisions of Maharashtra Prohibition Act 1949. Applicant has been allegedly found to have been supplying fake and counterfeit label and caps/corks for being used by co-accused Shailesh Dinesh Jaiswal and Mahesh Dinesh Jaiswal for adulterating or manufacturing, storing and transporting spurious liquor illegally in the name of the brands of the country liquor.

3. Applicant thereafter filed Miscellaneous Criminal Application (Bail) No. 1029/2022, in the Sessions Court, seeking anticipatory bail, which was rejected vide order dated 13.01.2023. The applicant thereafter approached this Court by filing Anticipatory Bail Application No. 108/2023, which was disposed of on 22.02.2023 with following observation:

"After arguing extensively on merits, when this Court was not inclined to grant relief, learned advocates for applicants in both the applications, on instructions, seek permission to withdraw the applications. Permission granted. Applications are disposed of as withdrawn."

4. Heard the learned advocate for the applicant and learned Additional Public Prosecutor for the respondent. Perused the documents placed on record.

5. Learned advocate for the applicant submits that the applicant is made accused only on the basis of confessional statement of co-accused and said accused has grudge against the applicant. He further submits that co-accused had lodged false complaint against the applicant, in which B summary report was filed by the police. He further submits that after the applicant's name was taken by co-accused, house of the applicant was raided and nothing was found at his house. Therefore, he submits that the application may be allowed and applicant may be granted protection.

6. Learned Additional Public Prosecutor opposed the application. He submits that without approaching the Sessions Court, present application is filed by the applicant and on this ground alone, application deserves to be rejected.

7. There is absolutely no change in circumstance, since the applicant withdrew his earlier application on 22.02.2023. The grounds sought to be raised by the applicant now, were already considered by this Court while disposing of the earlier bail application. Since the date of registration of FIR i.e. 02.11.2022, the applicant is avoiding arrest. The allegations against the applicant are serious and the applicant is alleged to be involved

in manufacturing of spurious liquor, thereby endangering the life of common public. Applicant's custody is therefore necessary for effective investigation. No case is made out by the applicant for grant of protection. The application, is therefore rejected.

[NITIN B. SURYAWANSHI, J.]