

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2007 OF 2023

Bagali Sahebrao Pawar

... Applicant

V/s.

The State of Maharashtra

... Respondent

VAIBHAV
RAMESH
JADHAV
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VAIBHAV RAMESH
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Mr. Ghansham Jadhav for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 18, 2023

P.C.:

1. Apprehending arrest in connection with *C.R. No.727 of 2021* registered with Yavat Police Station, District Pune for offences punishable under section 328 read with section 34 of the Indian Penal Code, 1860 and section 65(C) and 65(D) of the Maharashtra Prohibition Act, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, on 26th August 2021, at about 17:30 p.m. the informant Maruti Sudam Barate, Police Naik got secret information that the applicant along with other co-accused are manufacturing country liquor. Therefore, the informant with his team went at Wakhari. The informant found that the applicant along with other co-accused were manufacturing country liquor, but soon after they knew that there is a police raid, they fled away

from the spot. The informant identified them as Bagali Sahebrao Pawar, Swapnil Sunil Nanawat and Bhagat Mastaram Pawar i.e. applicant and other co-accused and told them to stop, but they fled away from the spot. The informant and his team seized the country liquor and chemical and equipments to manufacture the same. Accordingly F.I.R. was registered.

3. The applicant, therefore, filed an application under section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge, which came to be rejected by order dated 21st January 2022.

4. Learned advocate for the applicant pointed out that the applicant was arrested on 10th April 2023 in connection with similar offence in same police station. He was in custody for 10 days but his custody was not sought in the present F.I.R. and, therefore, he deserves protection.

5. It appears that the present report was filed on 27th October 2021. Learned Sessions Court rejected the anticipatory bail application on 21st January 2022. Though he was in custody of same police station in similar offence for 10 days, his custody was not sought in the F.I.R.0727 of 2021. On overall view of matter, the applicant has, therefore, made out a case for relief under section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicant in connection with *C.R. No.727 of 2021* registered with Yavat Police Station, District Pune for offences punishable under section

328 read with section 34 of the Indian Penal Code, 1860 and section 65(C) and 65(D) of the Maharashtra Prohibition Act, he be released on bail on furnishing PR Bond in the sum of Rs.25,000/-, along with one or two sureties in the like amount;

b) The applicant shall attend concerned police station on 20th, 24th and 26th July 2023 between 11:00 a.m. to 02:00 p.m. and, therefore, as and when called by the investigating officer;

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

6. The anticipatory bail application stands disposed of in above terms.

(AMIT BORKAR, J.)

Note:- This order is modified as per order dated 20th July 2023. The corrections in paragraphs 1 and 5 are shown in italicize.