

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3361 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Sagar Bharat Khandagale ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Rajesh Jadhav, for the Applicant.
Smt. Ashwini Takalkar, APP for the State/Respondent.
PSI Kesarkar, Akluj Police Station, Solapur, present.

CORAM: N. J. JAMADAR, J.
DATED: 6th DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.681 of 2023, registered with Akluj Police Station, Solapur, for an offence punishable under Section 328 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. On 26th September, 2023 pursuant to an intimation, a raid was conducted and the co-accused Anant alias Suryabhau Shahaji Sonawane was found in possession of poisonous intoxicating and unwholesome substance. It transpired that the co-accused was selling the said substance

at the instance of the applicant. The said co-accused had also fled after noticing the police party. He came to be arrested on 20th October, 2023.

4. The learned Counsel for the applicant submitted that the applicant was not found in possession of the said substance. Nor the co-accused has named the applicant as the person, who had supplied the said substance to him. The applicant has been roped in on the basis of mere suspension.

5. I have perused the FIR. *Prima facie*, it appears that the police informer had informed that the co-accused was selling the substance on instructions of the applicant. The learned APP, on instructions, of the Investigating Officer fairly submitted that the applicant has not been named by the co-accused.

6. In the circumstances, *prima facie* there is nothing to connect the applicant with the alleged offences. The fact that certain crimes, including for the offence punishable under Section 65(e) of the Maharashtra Prohibition Act, 1949, have been registered against the applicant in the absence of any *prima facie* material to connect the applicant with the instant crime cannot be a ground to deprive the personal liberty of the applicant.

7. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.681 of 2023, registered with Akluj Police Station, Solapur, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Akluj Police Station on 14th and 15th December, 2023 in between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]