

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

CRIMINAL APPLICATION (ABA) NO. 73/2023

Ravi alias Ravindra s/o Ashokrao Parise .vs. State of Maharashtra through its PSO
P.S. Deoli, Dist. Wardha.

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

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicant.
Mr. V. A. Thakare, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 28, 2023.

On 09.02.2023, following order was passed:

“Considering the nature of offence invoked in Crime No. 1411/2022, in which the applicant is apprehending his arrest, let the Investigating Officer issue a notice to the applicant under section 41A of the Criminal Procedure Code.

Pursuant to the notice, the applicant shall report to the Police Station, within a period of three days from its receipt and render his cooperation to the Investigating Officer.

If the Investigating Office arrive at a conclusion that the custodial interrogation of the applicant is necessary, he shall record his reason in writing to that effect. Failure to report to the Investigating Officer pursuant to the notice, the Investigating Officer is at liberty to effect the arrest.”

2. Despite such an order, notice under Section 41A of the Code of Criminal Procedure, 1973 has not been issued. Learned A.P.P. submits that the notice is issued today.

3. Allegations against the applicant is that he is manufacturing country liquor in contravention to the provisions

of the Maharashtra Prohibition Act, 1949. It is alleged that the applicant was found in possession of 1200 Litres of country made liquor. The sample is sent for chemical analysis. The result is awaited. Thus, as of now, there is no evidence that the substance manufactured is poison. Despite such status and without there being any allegation in respect of administration of poisonous substance, the investigating agency has blamed the applicant of commission of offence under Section 328 of the Indian Penal Code, 1860. Prima facie, the offence is not made out. What remains, then, is the bailable offence.

4. Learned A.P.P. submits that there is a series of offences registered against the applicant. All these are under the provisions of the Maharashtra Prohibition Act. These are bailable offences. In view of the above and considering the nature of allegations, the applicant is entitled for anticipatory bail. Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No.1411/2022 registered with Police Station, Deoli, Dist. Wardha, for the offences punishable under Section 328 of the Indian Penal Code and Sections 65(b), 65(c) and 65(f) of the Maharashtra Prohibition Act, applicant – Ravi alias Ravindra s/o Ashokrao Parise, be released on bail on he executing PR Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- (iii) The applicant shall remain present before the Police Station concerned on every Sunday between 10:00 A.M. to 12:00 noon, till filing of the charge-sheet.

(iv) 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/her from disclosing such facts to the Court or any Police Officer.

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

(vi) The applicant shall maintain law and order.

(vii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned, and shall not change the residence and mobile number(s) till the final disposal of the case.

(viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of.

(Anil L. Pansare, J.)

kahale