



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

CRIMINAL APPLICATION (ABA) NO.679 OF 2023

Manoj s/o Manikrao Baviskar

Vs.

State of Maharashtra, Through Police Station Officer, Arni Police Station, Arni,
District Yavatmal

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

Court's or Judge's orders

Mr. S. A. Mohta, Advocate for applicant.
Ms. M. A. Barabde, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/11/2023

1. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.683/2023 registered with Police Station, Arni, District Yavatmal for the offences punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and Sections 26(2)(i), 27(3)(e), 30(2)(a) and 59 of Food Safety and Standards Act, 2006.

2. Learned Counsel Mr. Mohta, for the applicant submitted that the applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Mr. Gopal Vinayakrao Mahore on an allegation that the informant is serving as Food Safety Inspector at Yavatmal. On 01.10.2023 at about 1.30 p.m. he received an information that one person namely Manoj Manikrao Baviskar i.e. present applicant is selling the contraband articles and police have conducted the

raid and seized the contraband articles from his house worth of Rs.26,650/-. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that though applicant was found at the spot, he was not arrested by the police. The police only seized the contraband articles which suggests that the physical custody of the present applicant is not required. Now, the contraband articles are already seized. As far as the applicability of Section 328 of the Indian Penal Code is concerned, the issue is pending before the Hon'ble Apex Court. In view of that, applicant be protected by granting anticipatory bail.

4. The said application is strongly opposed by the State on the ground that on the basis of the said information police officials conducted raid and contraband articles worth of Rs.26,650/- are seized from the house of the applicant. His physical custody is required for the interrogation purpose and prays for rejection of the application.

5. Having heard learned Counsel for the applicant. Perused the investigation papers. It reveals from the investigation papers and the recitals of the FIR that though applicant was present in the house when raid was conducted, the Investigating Officer has not arrested the applicant and contraband articles were seized. This fact itself is sufficient to show that physical

custody of the present applicant is not required. As far as the interrogation purpose is concerned, said interrogation can be carried out if some conditions are imposed on the present applicant.

6. The reply filed by the learned APP itself shows that the articles are seized and the samples are drawn from the seized articles and sent for the chemical analysis. Thus, except the interrogation of the applicant, nothing is remained which is to be investigated by taking the present applicant in the custody.

7. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant namely, **Manoj s/o Manikrao Baviskar** be released on anticipatory bail in the event of his arrest in connection with Crime No.683/2023 registered with Police Station, Arni, District Yavatmal for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code and Sections 26(2)(i), 27(3)(e), 30(2)(a) and 59 of Food Safety and Standard Act, 2006, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend Police Station as and when required for the Investigation purpose.

(iv) The applicant shall not induce or threat any of the witnesses who are connected with the alleged crime.

(v) The applicant shall submit his cell phone number and address with the address proof before the Investigating Officer.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)