

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

ANTICIPATORY BAIL APPLICATION NO.1034 OF 2024

Imran Salim Tamboli Applicant

versus

The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1035 OF 2024**

Imran Jafar Mirza Applicant

versus

The State of Maharashtra Respondent

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- Mr. Chetan S. Damre, Advocate for Applicants.
- Mr. Nitin B. Patil, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 26th APRIL, 2024**

P.C. :

1. Both these applications are decided by this common order today because they arise out of the same registered offence.

2. The Applicants are seeking anticipatory bail in

connection with Prohibition C.R.No.55/2024, dated 13/03/2024, registered with State Excise Department Yeola, Division-1, District Nashik.

3. Heard Mr. Chetan S. Damre, learned counsel for the Applicants and Mr. Nitin B. Patil, learned APP for the State.
4. The FIR is filed by one Avdhut Patil, working as an Assistant Sub-Inspector, State Excise Department, Yeola. He has stated that his office received an information that some young boys were making illicit country liquor at Mirza Chawl, Manmad and selling that illicit liquor. The officer arranged to conduct the raid. Three squads gathered near petrol pump at Manmad City. They went to the illicit liquor factory. One Maqsud Mirza was present there. There were some empty bottles. Some bottles were filled with illicit liquor. There were drums kept in a pickup van concealed under some cover. The said person had no license. The officers seized four plastic drums of the capacity of 200 ltrs, containing alcohol. 1000 empty bottles of capacity of 100 and 80 ml each. 740 empty boxes and 48 bottles containing

180 ml of poisonous liquor, 500 fake labels and 250 orange essence. All these articles were seized and the FIR was lodged. The said person Maqsud was arrested. Hence the FIR was lodged u/s 65(b)(c)(e)(f), 81, 83 and 90 of the Maharashtra Prohibition Act, 1949 and under section 328 of the Indian Penal Code.

5. The Panchanama at the time of seizure was conducted in the presence of Panchas. During investigation the arrested accused gave information. It was recorded by way of the statement on 15/03/2024. He had named the present Applicant Imran Jafar, who was his younger brother and the other accused Imran Tamboli who was Imran Jafar's friend as the persons who were responsible for that offence.

6. Learned counsel for the Applicants submitted that the Applicants were not found at the spot. The only evidence against them is the statement of the accused on the basis of which the accused cannot be arrested. There is no chemical analysis report showing that the liquor was poisonous. Section 328 of IPC is not applicable.

7. Learned APP submitted that at this stage, the statement of the arrested accused can be used because that is the only way by which, the officers can reach the co-accused, who have committed this offence. The offence is serious. If that liquor was sold in the market, it would have caused serious health issues to the customers. The offence is serious. At this stage, there is definite material against the Applicants.

8. I have considered these submissions. The Hon'ble Supreme Court in the case of State of Haryana Vs. Samarth Kumar, in Criminal Appeal No.1005 of 2022 decided on 20/07/2022 (2022 SCC OnLine SC 2087) had considered similar situation under NDPS Act. In that case, it was argued that the accused who had made an application for pre-arrest bail was sought to be arrested only on the basis of disclosure statement of the main accused. There was no recovery from him. The Hon'ble Supreme Court had held that in such cases those accused could raise this issue at the time of arguing regular bail application or at the time of final hearing after conclusion of the

trial. It was observed that to grant anticipatory bail in a case of such nature was not warranted. The order granting anticipatory bail passed by the High Court was set aside.

9. These observations are applicable in the present case. The offence is serious. Therefore, the statement of the arrested accused assumes importance. He has clearly stated that his younger brother Applicant Imran Jafar and other Applicant Imran Tamboli had helped him. All of them had indulged in making illicit liquor and selling it. The alcohol bottles, labels, bottle caps were brought through the Applicant Imran Tamboli. He was aware of the suppliers.
10. There is report of General Manager of sugar factory of Karmavir Shankarrao Kale Sahakari Karkhana, which mentions that the seized bottles of those batch numbers were not manufactured in their factory. The labels and the bottle caps were not genuine. The boxes were not genuine. The purity of alcohol was not according to the standard. That report is also against the accused/Applicants. In this view of the matter,

custodial interrogation of the Applicants is necessary. Therefore, no relief can be granted to the Applicants. The applications are rejected.

(SARANG V. KOTWAL, J.)