

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3177 OF 2024

Vijay Nimba Devare ... Applicant
Vs.
State of Maharashtra and another ... Respondents

Mr. K. S. Patil a/w. Mr. Tushar Sonawane for Applicant.

Mr. Mayur S. Sonavane, APP for Respondent-State.

Mr. Pravin Radhakrushna Mandlik, Sub-Inspector, State Excise Department,
Yeola Division-1, Yeola, Nashik.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 29, 2024

P.C. :

. Heard Mr. Patil, learned counsel for the applicant and Mr.Sonavane, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR bearing Prohibition Crime No.231 of 2024 dated 26.10.2024, for offences under Sections 65(a) and (e), 81, 83 and 90 of the Maharashtra Prohibition Act and Section 123 of the Bhartiya Nyaya Sanhita, 2023 (BNS).

3. The FIR, in the present case, has been registered on the basis of a truck being seized with spurious liquor. The truck was chased and apprehended on the basis of secret information received that such spurious liquor was being transported. At the time when the truck was apprehended, the driver ran away from the spot. The investigation led to the applicant herein as a bill was found in the truck bearing the name of the applicant's proprietorship i.e. Rameshwar Trading Company, showing that a particular quantity of wheat was sold by the proprietary

concern of the applicant.

4. The learned counsel for the applicant submits that there is no material to link the applicant with the offences in the present case. It is submitted that the applicant is a trader, who is in the business of selling grains and the original bill book is available for perusal of this Court, copy of which is filed with the application to show that the document on which the investigating authority is relying, is a concocted document. It is submitted that the applicant is ready to co-operate with the investigation and hence, this Court may allow the application.

5. On the other hand, Mr. Sonavane, learned APP has tendered a compilation of documents. It is submitted that a *panchanama* executed on 27.10.2024 shows that on a lead given by a local resident, the investigating officer, in the presence of *panchas*, found certain empty bottles of country liquor and Indian-made foreign liquor near the premises of the applicant and therefore, there is sufficient material to link the applicant with the offences in question. It is submitted that unless the custody of the applicant is obtained, further effective investigation may not be possible.

6. After considering the material brought to the notice of this Court and in the light of the rival submissions, this Court finds that while the application can be kept pending, a case for granting interim relief is made out by the applicant. In the present case, other than the bill purportedly issued by the trading concern of the applicant, showing that a particular quantity of wheat was sold, there does not appear to be any material to directly link the applicant with the offence in question.

7. Although reference is made to the *panchanama* dated 27.10.2024, it simply records that certain empty bottles of country liquor as well as Indian-made foreign liquor were found on the open plot. Reference to

the lead given by the local resident, at this stage, does not appear to be carrying the case of the investigating authority much further, simply for the reason that no statement was given by such individual or witness about alleged nefarious activities carried out by the applicant and his associates. It is specifically asserted on behalf of the applicant that he is the proprietor of the said trading concern, which has turnover of about Rs.70 crores annually. In such circumstances, so long as the applicant is ready to co-operate with the investigation, interim relief can be granted.

8. Hence, there shall be interim order in the following terms:-

- A. Till the next date, in the event the applicant is arrested in connection with FIR bearing Prohibition Crime No.231 of 2024 dated 26.10.2024, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;
- B. The applicant shall remain present before the investigating officer on 02.12.2024 and 03.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

9. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled.

10. List the application for further consideration on 13.01.2025, High on Board.

(MANISH PITALE, J.)