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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.32 OF 2024

(Dharma s/o Nimai Roy Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.M. Daga, Advocate for the applicant.
Ms H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 15, 2024.

Apprehending the arrest at the hands of police, in connection with Crime No.81/2023 registered with Police Station Chamorshi, District Gadchiroli for the offences punishable under Sections 65(e) and 83 of the Maharashtra Prohibition Act, 1949, the applicant approached to this Court for grant of anticipatory bail.

2. The accusation against the present applicant is on the basis of report lodged by Police Constable Satish Jadhav, who alleged that on secret information they have conducted the raid of one house, wherein co-accused Ajay Thakurdas Mandal was found. During the personal search and search of the house illicit liquor worth of Rs.18,400/- was seized. During inquiry with him, he disclosed the name of the present applicant as a supplier. On the basis of which, the crime is registered.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned, there is no material against him to connect with the alleged

offence, except the statement of the co-accused. Now, he has already cooperated with the investigating agency. Mere criminal antecedents are not sufficient to reject the bail application of the present applicant. In view of that, the ad-interim protection granted in his favour deserves to be confirmed.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that there are series of offences registered against the present applicant and he is habitual offender. In view of that, the application deserves to be rejected. She further submitted that notice under Section 41A could not be served as he was not found and thus it reveals that he is absconding.

5. Considering the submissions made by both the sides, at this stage, except the statement of the co-accused, no other material to show the connection of the present applicant with the alleged crime. As far as the criminal antecedents are concerned which cannot be an impediment to use the discretion in his favour considering the role of the present applicant in the alleged crime. As far as the submission of the learned APP that he is absconding, there is not material to show that the applicant is absconding. Merely, the reason assigned by the investigating agency that he was not found to serve the notice, is not sufficient to infer that he was absconding. At this stage, considering his immediate custodial interrogation is not required and considering the

fact that in many of the offences he is already acquitted from the charges, the application deserves to be allowed and the interim protection granted to the applicant deserves to be confirmed.

6. The ad-interim protection granted in favour of the applicant vide order dated 23/01/2024 is hereby confirmed on the same terms and conditions.

7. The application is disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*