



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

CRIMINAL APPLICATION (ABA) NO.155 OF 2024

(Mr. Gurubacchansingh s/o Premsingh Makkad 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. N.P. Meshram, Advocate for the applicant.
Ms H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 11, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.47/2024 registered with Police Station Desaiganj, Taluka Desaiganj, District Gadchiroli for the offence punishable under Sections 65(a), 83 and 98 of the Maharashtra Prohibition Act, 1949 and Section 130 and 177 of the Motor Vehicles Act, 1988.

3. The accusation against the present applicant is on the basis of report lodged by the Vilesh Jagdish Dhoke, Police Constable on an allegation that on 31/01/2024, the police received the secret information about the transporting of the illicit liquor in a vehicle moving towards Desaiganj from Arjuni Morgaon of Gondia District. Upon the said secret information, the vehicle was intercepted and the liquor worth of Rs.1,68,000/- was

seized. During investigation, the name of the present applicant is revealed and it also revealed that the co-accused who is arrested on the spot is working with the present applicant. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that the applicant was not found at the spot of incident. Now, the stock is already recovered, his custodial interrogation is not required. In view of that, he be released on bail. In support of his contention he placed reliance on the order of this Court in ***Criminal Application (ABA) No.3 of 2018 (Rahul s/o Gendlal Chaudhary Vs. State of Maharashtra, thr. P.S.O., P.S. Ram Nagar, Chandrapur) dated 05/01/2018*** and ***Criminal Application (ABA) No.635 of 2017 (Ankush Ghyansingh Verma Vs. State of Maharashtra, thr. P.S.O., P.S. Ballarpur, Chandrapur) dated 15/09/2017***.

5. *Per Contra*, learned Additional Public Prosecutor strongly opposed the application on the ground that there are criminal antecedents against the present applicant in all 12 offences are registered against him. The considerations for grant of pre-arrest bail and the bail under Section 439 of Cr.PC. are different. She further submitted that for invoking the power under Section 438 of Cr.PC. the applicant shall make out the exceptional case. The involvement of the present applicant revealed and hence, application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and the investigation papers. The vehicle was intercepted on the basis of secret information. During investigation, the statement of the driver of the vehicle was recorded from which it reveals that the present applicant is the owner of the said vehicle. The illicit liquor was allegedly transported illegally and the stock of Rs.1,68,000/- was seized by the investigating agency. There are 12 offences registered against the present applicant. Considering the continuous involvement of the present applicant in the alleged offence, the bail application deserves to be rejected. As far as the decisions on which the present applicant placed reliance on, the facts are entirely different, there is no reference as to the criminal antecedents in those orders whereas in the present case there is continuous involvement of the present applicant in various offences in the similar nature. In view of that, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)