



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

CRIMINAL APPLICATION (ABA) NO.250 OF 2024

Vishwas s/o Chakradhar Upadhayay and another
Vs.

State of Maharashtra, Through Police Station Officer, Sewagram, Wardha

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

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicants.
Ms. H. N. Prabhu, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.226/2024 registered with Police Station, Sewagram, Wardha for the offences punishable under Sections 186, 353, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 65(b), 65(c), 65(e) and 65(f) of the Maharashtra Prohibition Act, the applicants approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicants is that they were involved in manufacturing and selling of the illicit liquor manufactured from the Moha, therefore, raid was conducted and the Investigating Officer has seized the liquor as well as various articles from the house of the present applicants.

3. Learned Counsel Mr. Rai, for the applicants submitted that as far as the custodial interrogation part is concerned, which is not required as entire articles are already seized. The stock is also seized. Moreover, the applicant No.2 is residing along with her husband and son in the said house, therefore, the allegation that she is involved in the manufacturing of illicit liquor is not sustainable. He submitted that considering now the entire articles are already seized, custodial interrogation of the present applicants is not required. As far as the criminal antecedents are concerned, only one offence was registered against the applicant No.2 from which she is already acquitted.

4. Learned APP strongly opposed the said application on the ground that the statements of the witnesses are recorded. During the investigation, it reveals that the applicant No.2 was the Sarpanch of village and having terror in the vicinity and therefore, nobody come forward to give a statement against her. She further submitted that there are criminal antecedents against the applicant No.2, she is not cooperating with the investigating agency. In view of that, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicants and learned APP for the State. Perused the investigation papers, from which it reveals that there are criminal antecedents against the present

applicant No.2, but she is already acquitted from the said crime. The statements of the witnesses are already recorded, the articles are seized, therefore, the custodial interrogation of the present applicants is not required. Moreover, in the said house, the applicant No.2 is residing along with her son and husband therefore, allegation that she is involved in preparation of the said illicit liquor is the matter of investigation. Considering the immediate custodial interrogation of the applicant No.2 as well as the custodial interrogation of the applicant No.1 is not required, the application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **No.1 Vishwas s/o Chakradhar Upadhyay and No.2 Rajkumari Chakradhar Upadyaya** shall be released on anticipatory bail in the event of their arrest in connection with Crime No.226/2024 registered with Police Station, Sewagram, Wardha for the offence punishable under Sections 186, 353, 504 and 506 read with 34 of the Indian Penal Code and Sections 65(b), 65(c), 65(e) and 65(f) of the Maharashtra Prohibition Act, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- (iii) The applicant No.2 shall not enter into the vicinity Sewagram till further orders.

(iv) The applicant No.1 shall attend the Police Station Sewagram, District Wardha once in a week and the investigating Officer shall record his presence.

(v) The applicant No.1 shall not indulge in similar types of the activities and shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(vi) The contravention of any of the conditions imposed would lead to the cancellation of the bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)