



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

CRIMINAL APPLICATION (ABA) NO. 319 OF 2024

VISHAL S/O SHAMBU MANDAL

Vrs.

STATE OF MAHARASHTRA AND ANOTHER

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

Court's or Judge's Order

Shri G. D. Dani, Advocate for applicant.

Shri D. V. Chauhan, Public Prosecutor assisted by Shri U. R. Phasate,
A. P. P. for respondents.

CORAM: URMILA JOSHI-PHALKE, J.

DATE : 08/05/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.30/2024 for the offences punishable under Sections 65 (a),(b),(c),(d),(e), (f), 81, 83, 90 and 98 of the Maharashtra Prohibition Act, 1949, the applicant has appraoched to this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by the police official on an allegation that on 16/04/2024, a raid was conducted at the spot of incident, which is owned by the co-accused Rohit Wasnik and the said premises has been given on rent to the present applicant. The non-applicant seized the country-made liquor from one four wheeler and other articles from the spot. At the relevant time, the co-accused Akshay Shah was present and from his possession, the

articles were seized and he was arrested. It is alleged that since the date of incident, the present applicant was absconding. On the basis of said report, the crime is registered.

3. Learned counsel for the applicant submitted that as far as criminal antecedents are concerned, only one crime is registered against the present applicant. The entire material is already seized. Nothing is to be seized from the present applicant. His custodial interrogation is not required. In view of that, he be protected by granting pre-arrest bail.

4. Learned APP strongly opposed the said application on the ground that the application itself deserves to be rejected on the ground that the applicant has suppressed the fact that he has not mentioned about his criminal antecedents in the said application. He further invited my attention towards the statement of the land owner as well as the statement of the vehicle owner, which was seized at the time of the incident. The statement of Manoj Wasnik shows that he got acquainted with the present applicant from last one year. The present applicant has obtained the said land from him to start the Poultry Farm Shed on rent and thereafter, he has misused the said premises for manufacturing liquor and storing the same. The rent agreement is also placed before the Investigating Officer which shows that present applicant has obtained the said premises for the purpose of Poultry

Farm Shed. During investigation, the Investigating Officer has also seized the vehicle. The statement of the vehicle owner is also recorded and who narrated that on the day of incident, the present applicant has obtained Figo Car from him on the pretext that he needs the said car for attending the marriage and thereafter, the said vehicle was used for transporting the illicit liquor. The stock which was seized by the Investigating Agency is also used. Considering the act of the present applicant that he has suppressed the information about his criminal antecedents. Moreover, the land was obtained on false pretext that he wants to run the Poultry Farm Shed and vehicle was also obtained from other person on the pretext of attending the marriage and the said land as well as the vehicle was used for the illegal purpose i.e. for manufacturing the illicit liquor and transporting the same.

5. Learned counsel for the applicant submitted that the stock is already seized and the custodial interrogation of the present applicant is not required. The custodial interrogation is one of the considerations, merely because the custodial interrogation is not required, the anticipatory bail cannot be granted to the accused. It is well settled that while considering the anticipatory bail application, the considerations that is the gravity of offence, the availability of the accused for the purpose of investigation, the possibility of fleeing away from the Court of Justice are the relevant considerations considering that the huge stock is recovered from the

premises which is owned by the present applicant and suppressing the fact of criminal antecedents which are of the similar nature against the present applicant. No case is made out for grant of ad-interim protection as well as anticipatory bail application. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order :-

ORDER

The application is hereby rejected.

[URMILA JOSHI-PHALKE, J.]

Choulwar