



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.552 OF 2025

MUKHTAR MUNEEER SHAIKH

...APPLICANT

VS

THE STATE OF MAHARASHTRA

...RESPONDENT

...

Adv. Waqar Nasir Pathan for the Applicant.

Adv. Nitin B. Patil APP for the State.

...

CORAM : RAJESH S. PATIL, J.

DATED : MARCH 13, 2025

P.C.:

1. This is the application filed by the applicant for granting him anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in the event of arrest in connection with C. R. No. 82 of 2024 registered with State Excise Department C1 Division Thane under the provisions of Maharashtra Prohibition Act.

2. The allegations against the present applicant are that the co-accused is dealing in manufacturing illicit liquor, preparing from Jaggery. The present applicant is a supplier of Black Jaggery to the accused no. 1, on the basis of which, FIR has been lodged.

3. It is submitted by the applicant that the applicant in fact is running grocery shop at Uttan Village, Bhayandar. Being a grocery shop

owner, he also sales jaggery. He is not know to the accused no. 1. If the accused no. 1, who is in custody has purchased certain grocery from the applicant, that cannot be an offence. There are no antecedents against the present applicant. Therefore, the custody of the present applicant is not necessary.

4. The learned APP submits that from the police investigation, it has been found that a large quantity of Black Jaggery was found in the shop of the present applicant. The quantity was of 2340 kg amounting to Rs.93,600/-. The statements of the witnesses also suggest the name of the present applicant as a person who is into the business of selling Black jaggery for the purpose of preparing of illicit liquor to the persons like accused no. 1. The accused no.1 has been arrested. Twice, notices were issued to the applicant under Section 35(1)(B)(2) (ii) of the Bharatiya Nagarik Suraksha Sanhita, 2023. However, the applicant chose not to attend the police station. Therefore, the custody of the present applicant is necessary to find out why large quantity of the Black Jaggery was sold to accused no. 1. To find out that how many more people purchase such Black Jaggery from the applicant for the purpose of preparing the illicit liquor. The Public Health Department, Municipal Analyst Laboratory report shows that the sample of the Black Jaggery conforms to the standards of Black Jaggery prescribed under Regulation Clause 28 of Sec. 2 of Bombay Prohibition Act, 1949.

5. I have heard both the sides and have taken into consideration the documents on record. Accused no. 1 was arrested by the State Excise Department C-1, Division Thane. Accused no. 1 was preparing country liquor by using of Black Jaggery as one of the ingredients to prepare country liquor. As regards the present applicant, accused no. 1 has mentioned the name of the present applicant and also shown the shop of the present applicant from where he has to procure a Black Jaggery. A large quantity of 2340 kg of Black Jaggery is found in the shop of the present applicant. The applicant has no answer as to why such huge quantity of Black Jaggery is found in his shop. The learned APP has also shown me the statement of the police wherein, it has been shown that the present applicant is in contact with people who prepare country liquor. In spite of two notices issued to the present applicant under Section 35(1)(B)(2)(ii) of the Bharatiya Nagarik Suraksha Sanhita, 2023, he chose not to attend the office of the investigating officer. Therefore, according to me, the custody of the present applicant is required as he is not co-operated with the police.

6. I am in agreement with the findings recorded in the order passed by the Single Judge of this Court in *Imran Tamboli v. State of Maharashtra* [ABA/1034/2024]. In paragraph No. 8 relying upon the Hon'ble Supreme Court's judgment in *State of Haryana v. Samarth Kumar* [2022 SCC Online SC 2087] it has been held that the accused

seeking pre-arrest bail on the basis of disclosure statement of the main accused. And no recovery from him, in such cases it was held that this issue can be argued at the time of regular bail application or at the time of final hearing after conduction of the trial. Paragraph 8 of the said judgment read as under:

"8. I have considered these submissions. The Hon'ble Supreme Court in the case of State of Haryana Vs. Samarth Kumar, in Criminal Appeal No.1005 of 2022 decided on 20/07/2022 (2022 SCC OnLine SC 2087) had considered similar situation under NDPS Act. In that case, it was argued that the accused who had made an application for pre-arrest bail was sought to be arrested only on the basis of disclosure statement of the main accused. There was no recovery from him. The Hon'ble Supreme Court had held that in such cases those accused could raise this issue at the time of arguing regular bail application or at the time of final hearing after conclusion of the trial. It was observed that to grant anticipatory bail in a case of such nature was not warranted. The order granting anticipatory bail passed by the High Court was set aside."

[Emphasis supplied]

7. Considering the gravity and manner of the offence, I am not inclined to grant any kind of protection to the Applicant. Hence, **Anticipatory Bail Application is rejected.**

(RAJESH S. PATIL, J.)