



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

CRIMINAL APPLICATION (ABA) NO.728 OF 2023
(Chandu s/o Gagandas Nagwani Vs. 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. T.U. Tathod, Advocate for the applicant.
Ms S. Dhote, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 30, 2023.

Heard.

2. By this application, the applicant is seeking anticipatory bail in Crime No.121/2023 registered with Police Station Chikhaldara, District Amravati for offences punishable under Sections 328, 420, 468, 486, 487 read with Section 34 of the Indian Penal Code and Section 65(e) and 83 of the Maharashtra Prohibition Act, 1949.

3. Learned Counsel for the applicant submitted that the applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by PSI Rameshwar Chandrabha on an allegation that he received an information that the arrested accused Vinod Shankarrao Malviya and Pramod Shankarrao Malviya are selling the illicit liquor at their house. On conducting the raid, he has seized the stock of Rs.10,18,800/-.

4. During investigation, it reveals that they have obtained said country liquor from the present applicant. He submitted that only allegation against the present

applicant is that he has transported the said country liquor illegally. He further submitted that the co-accused against whom the similar allegations are made is already protected by granting anticipatory bail. Similar role is attributed to the present applicant and hence he be released on anticipatory bail.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that present applicant was not only transporting but he was manufacturing and selling the said liquor, and therefore, his custodial interrogation is required and application deserves to be rejected.

6. Having heard the learned Counsel for the applicant and learned Additional Public Prosecutor for the State. Perused the investigation papers. It reveals that the entire stock is recovered from the arrested accused. As far as the implication of the present applicant is concerned it is only on the basis of the statement made by the co-accused. The reply filed by the Investigating Agency before the trial Court shows that the role attributed to the present applicant is only to the extent of transportation. On perusal of the various statements, it reveals that only allegation against the present applicant is that he transported the said liquor and handed over to the accused.

7. As far as the manufacturing or selling there is no material collected by the Investigating Officer during the investigation. Considering that the co-accused to

whom the similar role is assigned is already released on anticipatory bail and entire stock is already recovered and there is no material to show that the present applicant himself was manufacturing the said illicit liquor. The applicant deserves to be protected by granting anticipatory bail.

8. Considering the nature of the allegation and the role assigned to the present applicant, a case is made out. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicant – Chandu s/o Gagandas Nagwani in connection with Crime No.121/2023 registered with Police Station Chikhaldara, District Amravati for offences punishable under Sections 328, 420, 468, 486, 487 read with Section 34 of the Indian Penal Code and Section 65(e) and 83 of the Maharashtra Prohibition Act, 1949, be released on anticipatory bail on furnishing PR Bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend concerned police station as and when called by the Investigating Officer for the investigation purpose.

(iv) The applicant shall not directly or indirectly make any inducement, threat or

promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*