

Namdev S/O Laxman Shevale vs The State Of Maharashtra, Thr. Pso Ps ... on 13 August, 2021

Author: Vinay Joshi

Bench: V. G. Joshi

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

CRIMINAL APPLICATION (ABA) NO. 510 OF 2021
Namdev s/o Laxman Shevale
..vs..
State of Maharashtra, thr. P.S.O.

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

Court's o

Shri R.L. Khapre, Senior Advocate with Shri S.A. Mohta,
Advocate for applicant.
Shri I.J. Damle, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 13/08/2021 In anticipation of arrest in Crime No.408 of 2021 registered with Patur Police Station, District Akola for the offence punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and Section 30(2)(a), 3(1)(zz)(v), 26(2)(i), 26(2)(iv) and 59 of the Food Safety and Standard Act, 2006, the applicant/accused is seeking for pre-arrest protection.

2. Learned Counsel for the applicant also seeks for grant of ad-interim protection.

3. It is primely canvassed that the applicant's name is neither mentioned in the First Information Report nor there is any material to show the nexus of the applicant with alleged seizure of banned Tobacco articles namely 'Gutka'.

2 6 aba 510.2021.2021

4. With the assistance of both sides, contents of First Information Report were gone into. It says that, the Police have seized a huge stock of Gutka pouches from two co-accused, who are already arrested. Further, it is revealed that, when the Police inquired with the arrested accused, they discloses names of some persons from whom the banned articles were purchased. However,

admittedly, applicant's name was not disclosed by the co-accused.

5. It is pointed that since the Police were visiting the applicant's place for arrest, initially, he has applied to the Court of Sessions for grant of pre-arrest bail by filing Misc. Criminal Application No.638 of 2021. The relevant order discloses that since the applicant/accused was not added as an accused, the Court has granted 48 hours protection to the applicant. Thereafter, the applicant received a notice on which he again move to the Court of Sessions for pre-arrest bail by Criminal Bail Application No.697 of 2021, which came to be rejected.

6. Perusal of order passed by the Sessions Court, discloses that there are allegations that the applicant was facing similar offences. He owns a godown to store the contrabanned. Moreover, there were CDR to show the connection.

3 6 aba 510.2021.2021

7. As of now, there is no material against the applicant. It requires to go through the entire investigation papers to find out the applicant's nexus and role. Merely on the basis of antecedents, without verifying the nexus of existing crime, the applicant's liberty can not be curtailed.

8. Having regard to the said fact and as the applicant is neither named in the First Information Report nor his role is specified by the informant, his liberty can be time being protected. Hence, the following order :

(a) Issue notice to the non-applicant, returnable on 03.09.2021. Learned A.P.P. waives notice for the non-applicant/State.

(b) In the event of arrest of applicant/accused Namdev s/o Laxman Shevale in connection with Crime No.408 of 2021 registered with Patur Police Station, District Akola for the offence punishable under Sections 188, 272, 273, 328 of the Indian Penal Code and Section 30(2)(a), 3(1)(zz)(v), 26(2)(i), 26(2)(iv) and 59 of the Food Safety and Standard Act, 2006, be released on interim bail on his furnishing P.R. bond of Rs.1,00,000/- with one surety in the like amount.

(c) The applicant/accused shall attend concerned Police Station on every Sunday in between 11.00 am to 2.00 pm till further orders.

4 6 aba 510.2021.2021

(d) The Applicant/accused 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.

JUDGE Trupti