

Order below Exh.1

1) The present application for regular bail is filed U/sec.439 of Cr.P.C. in connection with Crime No.385/2022, U/sec.328 of the Indian Penal Code and Sec.65(F) of Maharashtra Prohibition Act, registered with Police Station Renapur, Dist. Latur.

2) The above referred crime is registered on the basis of FIR lodged by informant Shriram Balaji Machewad, who is Assist. Police Inspector at Police Station, Renapur. He alleged that he along with other police official was on duty and reached for some purpose at village Pimpal-Phata whereat he received secret information that accused is dealing in the business of preparing illicit liquor in his agricultural land and therefore, he called two panchas and reached at the land of accused. He found in the agricultural land that processing for preparing illicit liquor was going on and one person was standing thereat, who ran away when he saw police. The police officer with him identified and asked him to stop, but he ran away therefrom. The police thereafter seized the chemical and other articles used for preparing illicit liquor from the land of accused and accordingly he sealed it in presences of panchas and lodged report against accused, on the basis of which, the above referred crime was registered.

3) Accused thereafter arrested on 17/10/2022 and he was produced before the Magistrate with a request to remand him in Magistrate custody.

4) The present application is filed submitting that provisions of Sec.328 of IPC can not be applied and as further custody of accused in jail is not necessary, applicant prayed to release him on bail. It is further submitted that applicant is not at all concerned with the said crime.

5) Application is objected by IO by filing his reply. The same is adopted by APP. The application is objecting that accused is habitual and three crimes are registered against him and if he is released, he will commit like offence.

6) Heard both the sides.

7) Shri. Bamankar learned advocate for applicant relied upon the case of ***Bimrao -v/s- State of Maharashtra*** decided by the Hon'ble High Court on 10/08/2020 while deciding the ***Anticipatory Bail Application No.55./2020***. He submitted that the allegations in FIR are insufficient to attract Sec.328 of IPC. I have gone through the said citation wherein it is observed that in similar offences Sec.328 of IPC cannot be applied unless there are allegations of administration of poisonous substances or attempt to offer the poisons substance. Admittedly there are no like allegations in the FIR and thus prima-facie it seems that the provision of Sec.328 of IPC cannot be applied to present case in hand in present circumstance.

8) So far as other allegations are concerned admittedly the police has not caught hold on the spot and moreover nothing is remained to be investigated as entire prohibited articles were seized. Further detention of accused in jail would serve no purpose and even otherwise, his detention is not necessary to frustrate further investigation. Accused thus deserves to be released on bail and hence, the order.

O r d e r

1. Application is hereby allowed.
2. The applicant Sukhdev Khandu Rathod, age 60 yrs., R/o. Vasant Nagar Tanda, Tq. & Dist. Latur involved in Crime No.385/2022, U/sec.328 of the Indian Penal Code and Sec.65(F) of Maharashtra Prohibition Act, registered with Police Station Renapur, Dist. Latur, be released on PB and SB of Rs.15,000/- (Rs. Fifteen Thousands Only) with one or two sureties and on condition that he shall not pressurize the prosecution witnesses in any way and shall not attempt to tamper with the prosecution evidence in any manner.
3. Bail be furnished in the Court of JMFC concerned.
4. Inform IO accordingly.

Date :- 20/10/2022.

(K. S. Totla)
Additional Sessions Judge-2,
Latur.