

IN THE COURT OF I/C ADDITIONAL SESSIONS JUDGE, GADCHIROLI
(Presided over by U.B. Shukla)

Criminal Bail Application No.259/2023
(CNR No.MHGA010009222023)

Aakash Bhaurao Bharadkar,
Age about 25 yrs., Occ. : Labour,
R/o. Gokulnagar Ward, Gadchiroli,
Tahsil and District : Gadchiroli

.. **Applicant**
(Accused)

-versus-

The State of Maharashtra
through Police Station Officer,
Police Station, Gadchiroli,
Tahsil & District : Gadchiroli

.. **Respondent**
(State/Prosecution)

O R D E R (Below bail application)
(Passed on this 21st day of September 2023)

1] The applicant **Aakash Bhaurao Bharadkar** apprehends arrest in connection with Crime No.708/2023 registered at Gadchiroli Police Station on 6.9.2023 for the offences punishable under Sections 353, 332 of the Indian Penal Code 65(a), 83, 98 of the Maharashtra Prohibition Act and he is seeking protection under Section 438 of the Code of Criminal Procedure from arrest.

2] Perused the F.I.R. It is based upon a written report given by API Mr. Avhad. As per the F.I.R., on 6.9.2023 the police squad was patrolling when a secrete information was received that a person named Aakash Bharadkar of Gokulnagar, Gadchiroli

(applicant) was likely to carry the illicit liquor by getting it from Raj Bar run by the co-accused Nikhil Damdeo Mandalwar, Niraj Damdeo Mandalwar and their father. Upon receipt of such information, panch were called and at the Court square the police squad kept watch on the movement of suspected vehicle. A four wheeler was found approaching from Chandrapur direction leading towards Gadchiroli. The said vehicle was signaled to be stopped. The driver on seeing the police increased the speed of the vehicle. Police chased the said vehicle. The vehicle went towards Chamorshi road and while proceeding towards Potegaon road, the driver of the vehicle stopped the vehicle and along-with other persons in the said vehicle, the driver of the said vehicle escaped through Zudpi Jungle. The police could find the vehicle at the spot. On search of the vehicle it was found containing following articles which were seized at the spot in presence of panch. :-

Sr. No.	Description of articles	Value
1]	14 boxes each containing 48 bottles (each 180 ml.) of ROYAL STAG DELUXE WHISKY CO.	Rs. 2,01,600/-
2]	17 boxes each containing 24 tin boxes of HAYWARDS 5000 PREMIUM STRONG WHISKY CO.	Rs.1,22,400/-

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3] According to the applicant, he has no concern with the alleged offence. He is not having any criminal background, however the F.I.R. names him incorrectly. According to the

applicant, the allegations regarding obstruction to the police does not involve him and said allegations are against the co-accused. According to the applicant, his custodial interrogation is not necessary and he is ready to cooperate in the investigation.

4] The application is opposed on behalf of the State on the ground that if the accused is granted protection he is likely to interfere in the investigation and tamper with the witnesses.

5] Learned Advocate for the applicant submits that the applicant is innocent and he is ready to cooperate in the investigation. According to him, as per the F.I.R. itself when the police went to search for the applicant at Raj Bar and Restaurant though the co-accused were found there but the present applicant was not found there and as such he is not at all involved in the incident alleged and has no connection with the vehicle or the property found therein.

6] Learned A.P.P Shri Kumbhare for the State opposed the application on the ground that the allegations against the accused are serious and that as per the credible information it was the accused who was in the vehicle which was found containing the illicit liquor.

7] Upon perusal of the F.I.R. it is clear that the allegation regarding obstruction to the police at Raj Bar and Restaurant does not involve the present applicant and those who are involved regarding the said incident have already been granted protection by this Court by order dated 11th September 2023. It further appears that as per the F.I.R. when the four-wheeler was found

coming from Chandrapur to Gadchiroli in suspicious condition it was tried to be stopped but on seeing the police the vehicle speeded up. The police chased the said vehicle and the police found the vehicle on Bodali road and the driver and the other person who were there in the vehicle ran away from the vehicle by taking advantage of the bushy jungle area.

8] It is thus clear at least as per the F.I.R. that no police officer chasing the vehicle had actually seen the accused inside the vehicle and had identified him. It is further noticed that the reply filed on behalf of the Investigating Officer does not specify the vital question as to ownership of the vehicle which was found lying at Bodali road. It is not the case of the prosecution that the present applicant is the owner of the said vehicle.

9] In view of the above observations, I find that it would be sufficient if the applicant/accused attends the Police Station and cooperate in the investigation and there is no need for his custodial interrogation. I therefore find that the applicant is entitled to have protection under Section 438 of the Code of Criminal Procedure. Hence, I proceed to pass following order.

O R D E R

1] Application is allowed.

2] In the event of arrest in connection with Crime No.708/2023 registered at Gadchiroli Police Station for the offences punishable under Sections 353, 332 of the Indian Penal Code 65(a), 83, 98 of the Maharashtra Prohibition

Sessions Judge,
Gadchiroli

Act, applicant **Aakash Bhaurao Bharadkar** be released on P.R. bond of Rs.15,000/- and surety in the like amount.

- 3] The applicant shall attend the concerned Police Station from **22th September, 2023** till **27th September, 2023** in between 11.00 a.m. to 3.00 p.m. and cooperate in the investigation.
- 4] He shall continue to cooperate in the investigation if the Investigating Officer requires his presence at the Police Station for further investigation even thereafter.
- 5] The applicant shall not tamper with the evidence.
- 6] The applicant shall not try to influence the witnesses.
- 7] The applicant shall not suborn the witnesses.
- 8] The applicant shall not abscond.
- 9] Inform the concerned Police Station and Investigating Officer by e-mail accordingly.

Gadchiroli
Date: 21.09.2023

(**U. B. Shukla**)
I/c Additional Sessions Judge,
Gadchiroli