

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.249 OF 2016

Raja @ Jalyababa @ Shamshoddin
Ayanoddin Ansari (Pinjari),
Age 49 years, Occu. Business,
R/o Jafaranagar, Near Ansar Tin Depot,
Malegaon, Taluka Malgaon,
District Nashik

.. Applicant

Versus

The State of Maharashtra

..Respondent

Mr C.R. Deshpande, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 18th February 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.III-23/2012 registered at Police Station, Ajintha, District Aurangabad, for the offences punishable under Section 20 of the Narcotic Drugs Psychotropic Substances Act (hereinafter referred to as 'N.D.P.S. Act' for brevity).

3. The prosecution story against the applicant is that the present applicant, who has along with other persons, in an Indica car bearing registered No.MH-04-CB-4756, followed by a motorcycle bearing registration No.MH-41-R-1351 were transporting charas in three bags of 1 Kg each. Upon receiving secret information about the present offence, Police Inspector Khushal Shinde made nakabandi, to check

the crime. The applicant along with his other accomplices, taking benefit of darkness, but for the Indica driver ran away from the spot to avoid being get caught on the spot. It is from the said car, charas was recovered. During investigation of the crime, the name of the applicant came forward as one of the accused.

4. The applicant came to be arrested during investigation after he was taken on remand from Crime No.19 of 2015, which is also punishable under Sections 19, 20, 29 of the N.D.P.S. Act., for which trial is pending before the Sessions Court, Malegaon, District Nasik.

5. While trying to make out the case for grant of regular bail, learned Counsel for the applicant would urge that the driver of the Indica car in question, which was involved in the crime and from whose custody, the contraband was seized viz. Shaikh Farooq Shaikh Gaffar was ordered to be released by this Court, by order dated 9th October 2012, passed in Criminal Application No.4076 of 2012. In addition, he would urge that the applicant shall abide by all such conditions, as shall be imposed, as his further detention is not necessary in view of filing of charge-sheet. He would then submit that the applicant is arrested only on suspicion and there is no direct evidence to connect him to the crime in question.

6. Learned A.P.P. opposed the application and submits that the applicant is a habitual offender, as there is one similar crime punishable under the provisions of N.D.P.S. Act vide Crime No.19 of

2015, which is pending before the Sessions Court, Nasik. He would then urge that the investigation depicts that the applicant ran away from the spot taking advantage of darkness and as such, subsequently he was arrested in the crime in question.

7. Learned A.P.P. would then urge that the sample of seized goods was sent for analysis and upon receipt of report from the Forensic Science Laboratory, it is proved that it is a psychotropic substance, falling within the meaning of Section 2 (iii) (a) of the N.D.P.S. Act.

8. Having bestowed my anxious thoughts to the submissions made, it is required to be noted that the applicant cannot claim parity in the present matter, particularly with that of Shaikh Farooq Shaikh Gaffar who was driver of the Indica car and was not owner of the same. It is required to be noted that the said driver has not ran away from the spot like present applicant. The applicant is noticed to have been absconding since the day of offence i.e. 30th April 2012. The contraband was seized from the vehicle.

9. Apart from above, the investigation depicts prima facie involvement of the applicant in the crime in question and as rightly pointed out by learned A.P.P. Crime No.19 of 2015, punishable under Sections 15, 19, 20, 29 of the N.D.P.S. Act is already pending against the applicant.

10. The applicant appears to be in habit of committing crimes punishable under the provisions of N.D.P.S. Act.

11. In view of above background, in my opinion, the applicant does not deserve to be released on regular bail. As such, application stands rejected.

(N.W. SAMBRE, J.)

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