

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4374 OF 2016

Arjun s/o Nimba Gavali
VERSUS
The State of Maharashtra

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Advocate for Applicant : Mr. H.V. Tungar.
APP for Respondent/State : Mrs. Priti V. Diggikar.

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CORAM : A. M. BADAR, J.

DATE : 25th AUGUST, 2016.

PER COURT :

1] Applicant/accused in crime no. 151 of 2016 for the offence punishable under section 20 of the N.D.P.S. Act, 1985 registered with Police Station, Kannad, Dist. Aurangabad, by this application, is seeking bail.

2] Heard the learned counsel for the applicant as well as the learned APP.

3] Learned APP opposed the application by contending that from the statement of main accused Vikki alias Nitin Pravin Jadhav, the investigator has traced out the present applicant as a person who is also involved in the crime in question. Learned APP further contended that, the investigator also collected call detail

record which shows that the present applicant was in contact with the main accused Vikki alias Nitin Pravin Jadhav.

4] Perused papers of investigation. On the basis of secret information received by the informant Police Inspector after making necessary compliance premises in occupation of main accused Vikki alias Nitin Pravin Jadhav came to be raided on 08/07/2016. In that raid, ganjha weighing 1 kilogram and 10 grams came to be seized from possession of main accused Vikki alias Nitin Pravin Jadhav.

5] So far as the present applicant is concerned, case of the prosecution is based on confessional statement of Vikki alias Nitin Pravin Jadhav. Statement dated 10/07/2016 of main accused Vikki alias Nitin Pravin Jadhav is hit by provisions of section 24, 25 and 26 of the Evidence Act, that cannot be construed as evidence against the present applicant. The learned APP then relied on confessional statement of main accused Vikki alias Nitin Pravin Jadhav, recorded under Section 27 of the Evidence Act. It is alleged by the investigator that, this statement has resulted in discovery of house of the present applicant. Nothing was seized from the house of the present applicant. As such this discovery has no legal value. In the wake of foregoing observations there are reasonable grounds to believe that the present applicant is not

guilty of the offence punishable under N.D.P.S. Act.

6] As *prima facie* there is no evidence against the present applicant in the crime in question, pendency of one case against him is of no consequence. In this view of the matter further pre-trial detention of the present applicant is not warranted and, therefore the order:

ORDER

- i) The application is allowed.
- ii) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs.10,000/- (Rupees Ten Thousand) and on furnishing surety of the like amount.
- iii) As a condition of this Order, applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- iv) The applicant shall not tamper with the prosecution evidence.

v) The applicant / accused shall cooperate for expeditious disposal of the trial.

vi) The applicant shall not repeat commission of similar type of offences in future.

vii] The Application stands disposed of in the aforesaid terms.

**[A. M. BADAR]
JUDGE**