

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

**CRIMINAL APPLICATION NO. 5181 OF 2016**

Kishan Kistayya Islawat & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.V.A. Bagdiya, Advocate for the applicants.

Mr.A.S. Shinde, A.P.P. for respondent/State.

**CORAM : A.M. BADAR,J.**

**DATED : 13.10.2016**

**P.C. :-**

1. Applicants who are accused in Crime No.3093 of 2015 registered with Latur (Rural) Police Station, for offences punishable under sections 20 (B), (C) & 29 of the Narcotic Drugs and Psychotropic Substances Act, by this application, are seeking their release on bail after filing of charge-sheet.

2. Heard learned Counsel appearing for applicants. He argued that there is no compliance of section 50 of the Narcotic Drugs and Psychotropic Substances Act. It is further argued that samples are taken out only from two packets and therefore offence will have to be judged

by considering two packets as quantity and therefore the alleged contraband is not falling under commercial quantity. Therefore, in submission of learned Counsel for applicants, applicants are entitled for bail.

3. Learned A.P.P. opposed the application.

4. Perused the charge-sheet. Applicants are arrested by Local Crime Branch of Latur Police at the time of Nakabandi. A pick up van in which both applicants were travelling, was having registration number of Andhra Pradesh and it was empty. On the suspicion it was accosted. During inspection of that pick-up van occupied by both applicants, it was found that 44 packets of Ganja were concealed in the trolley of the pick up van by making secret boxes in it. Total Ganja weighing 88 kilograms was seized from that vehicle. Samples from two packets were collected and sent for forensic examination. Same was found to be containing Ganja. Search was not personal search and contraband was found kept concealed in the trolley of the pick up van. Therefore, I do not find any contravention of any mandatory provision of the Narcotic Drugs and Psychotropic Substances Act. Drawing samples from two packets at this stage does not entitle applicants to seek liberty in such crime which is very serious in nature.

5. The nature of offence and circumstances in which it is committed is very material in enlarging accused on bail. In systematic way Ganja was being transported by concealing in secret boxes specially prepared in the trolley of that pick up van in possession of both applicants. The application is rejected.

**[A.M. BADAR, J.]**