

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.537 OF 2017

Rinku Samin Choudhari .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.K.S.Patil, Advocate, for the Applicant
Mr.Y.M.Nakhwa, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-176 of 2016 registered with the Taloja Police Station, District – Raigad, for the alleged offence punishable under Section 20 of the Narcotic Drugs And Psychotropic Substances Act (for short 'NDPS' Act).

3. Learned counsel for the Applicant submits that 9 Kgs 700 grams of Ganja was seized from the Applicant. He submits that the said quantity is more than small quantity but lesser than commercial

quantity, hence, the bar of Section 37 of the NDPS Act will not apply. He submits that the Applicant is in custody for one year and that investigation is complete and charge-sheet is filed. He further submits that the maximum sentence that can be awarded is up to ten years and as there is no minimum prescribed, punishment that can be awarded can be upto a few months or even a few years. He also submitted that there is tampering with respect to the date on page Nos.38 & 39 of the Application.

4. Learned APP opposes the Application.

5. Perused the papers. On 19.08.2016, (API – Jadhav), received secret information, that an unknown person was going to come on the road near, the Technova Company. Pursuant thereto, API Jadhav conveyed the said information to Senior P.I. - Budhwant, who in turn passed on the information to the Deputy Commissioner and Additional Commissioner of Police and after obtaining an oral order from them, laid a trap. The Applicant was apprehended on the spot and was found in possession of 9 Kg & 700 grams of Ganja, which he had kept in a bag. Panchanama was drawn and Ganja worth Rs.97,000/- was seized. No doubt, bar under Section 37 of the NDPS Act will not apply, since

the quantity is lesser than the commercial quantity, however, the fact remains, that the Applicant was apprehended at the spot and was found to be in possession of 9 Kg & 700 grams of Ganja. The offence under Section 30 of the NDPS Act is punishable up to 10 years. Whether or not there is tampering with respect to the date mentioned on page Nos.38 & 39 of the Application, is a matter which will be decided by the trial Court.

6. Considering, the prima facie material qua the Applicant, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. The trial of the Applicant is however expedited.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)