

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1412 OF 2017***

Abraham Doulappa Jan & Ors.	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr.Ritesh Thobde, for the applicants.
Mrs. Veera Shinde,APP, for the State.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 13th December, 2017.***

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicants herein are arrested on 5.2.2017 in Crime No.90 of 2017 registered at MIDC Police Station, Solapur. The investigation is completed and charge-sheet is filed against the applicants on 5.7.2017 for the offences punishable under Section 20(B) of the Narcotic Drugs & Psychotropic Substances Act, 1980.

2. It is the case of the prosecution that on 5.2.2017, the MIDC Police Station, Solapur had received a secret message that the narcotic substances are being transported through the Public Transport i.e. the

S.T.Bus from Solapur bearing Reg. No.MH14-BT-4987. The police from MIDC Solapur had apprehended the said persons. They had checked the suspicious goods. They had made enquiries about 3 sacks on the rack and 3 bags which were in the possession of the applicants. Upon enquiry, the said persons i.e. the applicants had claimed the said bags. It was revealed that the bags contained narcotic substances such as ganja. A panchnama was carried out and it was revealed in the inventory that a total weight of the narcotic substance was a little more than 19 Kgs. The Investigating agency had enquired as to whether the applicants desired to be examined by a Gazetted officer. They had denied and offered to be examined by the Dy.S.P. Shri Karande. The applicants along with narcotic substances were taken to the police station and after completing the initial formalities, Crime No. 90 of 2017 was registered at MIDC Police Station.

3. The applicants had filed an application seeking relief before this Court bearing Bail Application No. 868 of 2017 and 827 of 2017 during the pendency of investigation. However, since the investigation was completed and charge-sheet was filed, the said applications were withdrawn with liberty to file an application after filing of the charge-sheet.

4. The learned counsel for the applicants submits that the applicants

have no criminal antecedents. That it is disputed as to whether the applicants were in conscious possession of the narcotic substance ganja. It is also submitted that the two applicants are women, they are innocent and, therefore they deserve to be enlarged on bail.

5. As against this, the learned APP submits that the two applicants are from the State of Telangana, one is from Latur and another from Satara. They were all travelling together and each one of them was in conscious possession of the contraband. Therefore, a crime syndicate cannot be ruled out. It is also submitted that upon enquiry, the applicants had claimed the ownership of the bags and therefore, it cannot be said that they were not in conscious possession of the said narcotic substances.

6. It is a matter of record that the applicants were in conscious possession of the contraband as they had claimed the said bags. The issue as to whether they were in conscious possession or not is a matter to be decided at the stage of trial.

7. Taking into consideration the facts of the case, papers of investigation and the submissions advanced across the bar, this Court is of the opinion that the applicants do not deserve to be enlarged on bail. Hence, the application stands rejected.

8. However, it is made clear that the observations made hereinabove are prima facie in nature and shall not be considered by the said Court at the time of trial.

(SMT. SADHANA S.JADHAV, J.)