

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1986 OF 2017

Sunil Nagesh Bhandari ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.V.V. Purwant , Advocate for the Applicant.

Ms.P.P.Shinde, APP for the Respondent/State.

Narendra Patil PI , Ambarnath Police Station.

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CORAM : A.M.BADAR J.

DATED : 16th NOVEMBER 2017.

P.C. :

1. The applicant/accused in Crime No.II-22 of 2017 with Ambarnath police station for the offences punishable under Sections 8(c), 20 and 29 of Narcotic Drugs and Psychotropic Substances Act,1985 (hereinafter referred to as 'NDPS Act' for the sake of brevity) by this application is seeking his release on bail in the event of his arrest.

2. Heard the learned advocate appearing for the applicant/accused. By taking me through the FIR, the

learned advocate argued that the main accused Yelumalai had not named the present applicant as a person from whom she had purchased the Ganja. My attention is drawn to three remand reports, wherein name of the present applicant is not figuring. It is argued that the house of the applicant was searched but nothing was found.

3. The learned Additional Public Prosecutor opposed the application by contending that the complicity of the applicant in the crime in question is reflected from statement of Ramesh Pawar, who is one of the accused in the crime in question. However, the learned APP accepts the fact that the house search of the present applicant has not yielded in recovery of the contraband.

4. I have carefully considered the rival submissions and also perused the case diary of the crime in question.

5. On the basis of secret information regarding possession

of the Narcotic drugs, raid was conducted and co-accused Yelumalai Manikam was found in possession of 3.700 kg.Ganja. She disclosed the source from which she has procured the contraband by stating that their names are Shiva, Shankar and brother in law of Rahul. She also gave one cell phone number stating that the owner of that cell phone number is also selling the narcotic drugs. Police then conducted further investigation. During the course of the investigation, statement of Ramesh Pawar came to be recorded and he has stated that his younger brother Deepak had telephonically informed him that the present applicant will come and will deliver packets containing Ganja. Undisputedly, Ramesh Pawar is a co-accused and his statement is in the nature of confession made to the police inspector while he was in custody.

6. House search of the present applicant has not yielded in recovery of any contraband. The learned APP argued that call details record shows that the present applicant was

in contact with other accused persons.

7. Except the statement of the co-accused, which is not admissible in law there is no material to connect the applicant to the crime in question. So called exchanges of calls between him and other accused persons are not sufficient to infer that the present applicant has indulged in either possession of trafficking the contraband.
8. In this view of the matter, there are no reasonable ground for believing that the present applicant is guilty of any offence punishable under the NDPS Act. His custodial interrogation is not warranted particularly Considering the nature of the evidence against him. In the result, the following order.

ORDER

- i) The application is allowed.
- ii) In the event of his arrest in crime No. II-22 of 2017 with Ambarnath police station for the offences punishable

under Sections 8(c), 20 and 29 of N.D.P.S Act, the applicant/accused be released on bail on executing P.R bond of Rs.15,000/- and on furnishing surety in the like amount.

iii) As a condition of this order, the applicant shall attend the concerned police station on every 2nd and 4th Saturday in between 11.00 a.m. to 1.00 p.m. and he should co-operate with the investigating officer.

iv) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

v) He should not tamper the prosecution evidence.

(A.M.BADAR J.)