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

BAIL APPLICATION NO.2893 OF 2018

Suresh Ramsing Beldar

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Pritam Runwal for Applicant.

Mr. Amit Palkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 10th December 2018.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. 155 of 2018 dated 3.9.2018 registered with Adgaon Police Station, Nashik under Section 8(c), 20(c), 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2] Heard the learned Counsel for the applicant and the learned APP. Perused the chargesheet.

3] The applicant is accused No.6 in the present crime. It is the prosecution case that, the Investigating Agency received confidential information that, the accused Nos.1 and 2 namely Nitin Shinde and Sunil Shinde respectively were to transport substantial quantity of contraband "Ganja" from their Eicher Truck bearing No.MH-15/EG-2800 to Nashik and therefore the said truck was

traced out by the police. That contraband namely 'Ganja' weighing about 688.300 Kgs was found in the said truck. It is the prosecution case that, the accused Nos.1 and 2 used to put duplicate number plates on the said Truck for transporting contraband. That the co-accused Nos.5 and 10 have assisted them by following the said truck giving it cover and delivering the contraband upto Nashik.

During the course of investigation, the applicant came to be arrested on 19.6.2018 and after completion of investigation the police have submitted chargesheet.

4] The complicity of the applicant in the present crime is revealed during the course of investigation and recording of statement of co-accused under section 27 of Evidence Act. That there is CDR of mobile phone calls between applicant and the accused No.1 Nitin Shinde. These are the only two circumstances against the applicant to show his complicity in the present crime.

As far as the first circumstance is concerned, the statement of co-accused pointing out the complicity of other accused can be a relevant statement at the stage of investigation only and same cannot be taken into consideration once the chargesheet is filed by the police. Therefore the said circumstance of statement of co-accused has to be kept aside from consideration at this stage.

As far as the other circumstance that there are exchange of calls between the applicant and co-accused No.1 Nitin Shinde is concerned, the same

are prior to commission of offence i.e. much prior to 3.9.2018 and it appears that, it has no direct nexus with the commission of present crime.

5] In view of the above, prima facie it appears that, the applicant is not guilty of an offence under the provisions of NDPS Act. The applicant is therefore entitled to be released on bail.

Hence the following Order:-

i] Applicant be released on bail in CR No. 155 of 2018 registered with Adgaon Police Station, Nashik on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

ii] After his release from jail, the Applicant shall attend the Adgaon Police Station on every 1st Monday of the month between 10.00 a.m to 1.00 p.m and to join the process of investigation till conclusion of trial.

iii] Applicant shall also attend all the dates before the Trial Court without any excuse.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)