

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL BAIL APPLICATION NO.1613 OF 2019**

Kailas Kushaba Shiktoode

..Applicant

*Versus*

State of Maharashtra

..Respondent

....  
Mr. Priyal G. Sarda, Advocate for the Applicant.

Ms. Sharmila S. Kaushik, A.P.P. for the Respondent-State.

....

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 17<sup>th</sup> SEPTEMBER, 2019**

**P.C.**

1. The applicant is seeking his release on bail in connection with C.R.No.92/2016 registered with Mangalwedha Police Station, District – Solapur under Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as ‘NDPS Act’).

2. The FIR is lodged by Police Constable Shashikant Sawant, who had stated that on 26.2.2016 he received a secret information that the present applicant along with his associate lady Vimal Kamble were selling ganja at his house. The superior officer was informed and his permission was taken. The panchas were called. The raiding party went to the house mentioned in the information with the panchas. They raided the place at around 10:30 p.m. The lady named Vimal Kamble was found

there. The panchas took her personal search. She was found in possession of few packets of ganja. On further enquiry, she pointed out the place where few more small packets of ganja were found. The samples were drawn from those articles. The weight of the contraband was 1 kilogram & 690 grams. On this basis, the FIR is lodged. The applicant was arrested on 25.3.2019 and since then he is in custody. The investigation is already over and the charge-sheet is filed.

3. I have heard Shri Sarda, the learned Counsel for the applicant and Smt. Kaushik, the learned A.P.P. for the State. Shri Sarda submitted that there is breach of every mandatory provision under the N.D.P.S. Act in conducting the raid. He submitted that there is no substantive evidence against the applicant. The applicant was not present on the spot and there is nothing to show that said house was in possession of or was owned by the applicant. Learned A.P.P. pointed out that the applicant was absconding for a long time and, therefore, bail should not be granted to him.

4. I have considered all these submissions. The charge-sheet contains statements of police party. They have simply supported the contents of the FIR. It does not show that the mandatory provisions under Sections 42 and 50 of N.D.P.S. Act were followed by the Police Officers in conducting the raid. Apart from that the contraband which was found was more than small quantity but less than commercial

quantity. Therefore, there is no impediment under Section 37 of N.D.P.S. Act in grant of bail to the applicant. Moreover, as rightly pointed out by Shri Sarda, the charge-sheet does not show any connection of the applicant with the said house from where ganja was recovered.

5. Considering all these aspects, the applicant deserves to be released on bail. However, considering the submission of learned A.P.P. that he was absconding for a long time, suitable condition needs to be imposed on him. Hence the following order:

### **ORDER**

- i. The applicant is directed to be released on bail in connection with C.R.No.92/2016 registered with Mangalwedha Police Station, District – Solapur, on his furnishing a P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- ii. The applicant shall attend the concerned police station every Monday between 10:00 a.m. to 11:00 a.m. for a period of six months and thereafter once every month till conclusion of the trial.
- iii. The application is disposed of accordingly.

**(SARANG V. KOTWAL, J.)**

Deshmane (PS)