

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

CRIMINAL BAIL APPLICATION NO. 102 OF 2019

Akbar Sarval Khan ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Pritam P. Runwal for Applicant.

Mr. S. S. Hulke, APP for Respondent – State.

Mr. B. B. Palkar, PSI, Police Station, Nashik City present in Court.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 15, 2019.

P.C. :

. In Crime No. 155 of 2018 for an offence punishable under Sections 8 (C), 20 (C), 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter be referred to as 'the Act' for the sake of brevity) the present Applicant seeks regular bail. The Applicant came to be arrested on 16th June 2018.

2. The contraband that was seized in the crime in question was a commercial quantity of Ganja. The present Applicant is named as accused from whom co-accused Nitin Ashok Shinde procured the

contraband. The statement of such co-accused Nitin recorded on 30th June 2018 pursuant to the provisions of Section 27 of the Act does not name the present Applicant, whereas a subsequent statement recorded pursuant to the provisions of Section 27 of the Evidence Act named the present Applicant from whom the said accused had procured the contraband.

3. The law on the issue *qua* the statement of the co-accused involving the other accused is well settled. Such statement of the co-accused can be considered only to the extent of assisting the investigation and not for the purpose of trial. Similarly placed accused namely, Suresh Ramsing Beldar in an identical set of circumstances approached to this Court vide Bail Application No 2893 of 2018 on the similar grounds, viz – the accused is named pursuant to the statement of co-accused in the crime in question. This Court vide order dated 10th December 2018 has allowed the said Application.

4. In response to the submission of the parity made by the learned Counsel for Applicant, the learned APP on instruction submits that the case of the Applicant is at par with that of co-accused Suresh Ramsing Beldar.

5. In the wake of aforesaid position of law, in my opinion, the Applicant also deserves to be released on bail. Hence, the following order.

ORDER

- (A) The Applicant be released on bail in Crime No. 155 of 2018 for an offence punishable under Sections 8 (C), 20 (C), 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, on executing PR Bond of Rs.1,00,000/- with two local sureties in the like amount.
 - (B) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.
 - (C) If the Applicant is found involved in the similar type of offence, it will be open for the prosecution to move for cancellation of bail.
6. The Criminal Bail Application stands allowed in above terms.

(NITIN W. SAMBRE, J.)