

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

CRIMINAL BAIL APPLICATION NO. 2591 OF 2019

Vilas Kewal Bhamre	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Dilip Mishra i/b. Kiran Gogawale i/b. Ayaz Khan, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE :15th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.113 of 2018 registered with Kalamboli Police Station, Navi Mumbai, under sections 8(c), 20 and 29 of the Narcotics, Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). The applicant is arrested on 30/06/2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. The FIR is lodged by Police Constable Salim Inamdar attached to Crime Branch, Property and Anti Narcotic cell. He has

stated that, on 29/06/2018, he received secret information that a truck bearing No.PB-07-AF-5029 was expected to come within the jurisdiction of Kalamboli police station between 1.00a.m. to 3.00a.m. on 30/06/2018. The present applicant was named as the Cleaner. His clothes were also described. Besides this, the name of driver and his description was also given in the information. The informant immediately told Senior P.I. Ravindra Budhwant about said information. Thereafter, the informant went to his office. The information was recorded in the information book. The copy of the information was prepared and report in respect of the information was made by API Santosh Mutkule. A copy of the report was submitted to Senior P.I. Ravindra Budhwant. The police party was arranged to conduct raid pursuant to the information. Two panchas were called. The raiding party went to the spot at about 1.30a.m. The truck mentioned in the FIR passed through that area. It was intercepted. The applicant and the driver were travelling in the truck. Both accused were informed about their right to be searched before a Gazetted Officer U/s.50 of the NDPS Act. The accused were arrested. Search of the truck showed that there were

three gunny bags containing some parts of Opium plant. Three gunny bags containing 12Kg., 10.900Kg. and 4.550Kg. of the contraband were seized. The FIR mentions that it was opium along with codine. Samples weighing 50gms. from each of these three gunny bags were taken. The samples were sealed under the signature of panchas. The offence was registered on the allegations that the accused were transporting 27.450Kg. of Opium with Codine. The offence was registered U/s.8(c), 20 and 29 of the NDPS Act. The applicant was immediately arrested and since then he is in custody. The charge-sheet contains Chemical Analyzer's report which described the contraband as, "Morphine along with other opium alkaloids are detected in exhibit nos.(1), (2) and (3). Exhibit nos.(1), (2) and (3) falls under section 2 (xviii) of NDPS Act, 1985." The charge-sheet contains statements of raiding party members and panchas.

3. Heard Shri. Dilip Mishra, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

4. Learned counsel for the applicant submitted that the C.A. report along with schedule mentioned in the NDPS Act show

that the contraband recovered from the accused falls in the category of non commercial quantity. He submitted that the Hon'ble Supreme Court in many cases has taken a view that in such cases generally bail should be granted. He further submitted that there is non compliance of mandatory provisions U/s.42 of the NDPS Act. He submitted that the co-accused Vikramjeet Saini who was driving the truck was released on bail pursuant to the order passed by this court on 27/08/2019 in Bail Application No.532 of 2019. He, therefore, claimed parity for his release on bail.

5. Learned APP opposed the grant of bail, however, conceded that the ground of parity was available for the applicant.

6. I have considered these submissions. The co-accused Vikramjeet Saini was driver in the same truck is already granted bail by this court vide order dated 27/08/2019. It was mainly granted on the ground that the contraband found in the truck was less than commercial quantity. The applicant was in custody since more than a year. Considering all these aspects, the ground of parity is definitely available to the applicant and, therefore, he also deserves to be released on bail on the same terms.

7. Hence, the following order :

ORDER

- (i) In connection with C.R. No. 113 of 2018 registered with Kalamboli Police Station, Navi Mumbai, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)