

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.755/2019

Imran Ilyas Dalla .vs. State of Maharashtra thr.PSO P.S.Gittikhadan, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. P. Bhandarkar, Advocate for applicant.
Mr. V. D. Muley, Advocate for non applicant.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 14, 2019

1. The applicant is arrested in Crime No.418/2019 registered with Police Station, Gittikhadan, Nagpur for an offence punishable under Sections 21(c) and 29 of the Narcotics Drugs and Psychotropic Substances Act (NDPS Act). Name of the present applicant is figured in the First Information Report itself.

2. From the applicant and co-accused, 55 gm. of Mefadron (MD), which is a commercial quantity, is seized after following due process as envisaged under the provisions of the NDPS Act.

3. The investigation is still in progress. The charge-sheet is yet to be filed.

4. According to learned counsel for applicant, applicant is arrested falsely and in fact he was not arrested from the spot. He was already in detention of police.

5. The said submission is his defence and that will be tested at the relevant stage of the trial.

6. Insofar as falsity of FIR is concerned, application under Section 439 of the Code of Criminal Procedure is not the stage wherein falsity is to be tested. If applicant is of a view that he is being falsely implicated in the crime, remedies are open for him by filing appropriate proceedings.

7. Learned counsel for applicant further submitted that the applicant has developed a cyst of 7 X 7 cm. in his stomach. The said submission is made on the basis of affidavit filed by the brother of applicant.

8. The said affidavit dated 04.09.2019, is filed on record vide Stamp No.4658/2019. Along with said affidavit, no documents showing any earlier treatment the applicant was taking is filed on record.

9. It is always open for jail authorities to give proper medical care to applicant and if said is not given then it is open for the applicant to approach this Court in appropriate proceedings seeking for appropriate medical treatment.

10. During the course of hearing, the learned counsel could not point out any breach of any mandatory provision of the NDPS Act.

11. The offence is the most heinous one. Applicant is found in conscious possession of Mefadron (MD), a psychotropic substance, which is destroying the youth. The offence is against society. I am reminded of words of the Hon'ble Supreme Court that there may be a murder but reason for committing that offence may be a personal one. However, the present is an offence which is for gaining financial advantage and also ultimately destroying pillars of the future of India. The Courts should not overlook the interest of society also.

12. In that view of the matter, Courts must take strict view in such matters. I do not see any reason to release the present applicant on bail. The application is, therefore, rejected.

JUDGE