

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

CRIMINAL APPLICATION (BA) NO. 380 OF 2020

(Nagula Vijay S/o Sambashivudu Nagula

.Vs.

State of Maharashtra, thr. PSO, PS Katol, District- Nagpur.

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

Court's or Judge's order

Shri. R. M. Daga with Shri. Jasprit Singh Chilotra, Counsel for Applicant
Smt. M. A. Barabde, APP for non-applicant/State.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : 17th AUGUST 2020.

Heard Shri. R. M. Daga along with Shri. Jasprit Singh, learned Counsel for the applicant and Smt. M. A. Barabde, learned A.P.P. for non-applicant/State through video conferencing.

2. Applicant is said to be arrested in connection with Crime No. 347/2016 for the offences punishable under Section 08 (c), 20 (B), 22 and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (NDPS) Act read with Section 34 of the Indian Penal Code.

3. It is the case of the prosecution that on 05.09.2016, an information received to Katol Police Station, District – Nagpur stating that one car has fallen down from the bridge in canal at Chikhali – Maina Sivar and two

occupants namely Amit Singh Tomar and Vijay Pal Kohi have been injured.

4. The police then reached the spot of occurrence and noticed contraband material i.e. ganja “weighing around 190 kg” in the dicky of the car bearing Registration No. DL-4C/AB-6700. FIR came to be lodged and after investigation chargesheet was filed against number of accused including the present applicant.

5. I have perused the application, affidavit-in-reply of the State and the copy of the chargesheet. I have also perused the copy of orders of bail granted to the co-accused by the Hon’ble Apex Court and this Court.

6. At the outset, a perusal of the order dated 06.12.2019 by which co-accused - Nikhilesh Bakshi was released on bail by Hon. Apex Court would reveal that the Hon’ble Apex Court considered that the trial could not be proceeded because one of the accused is absconding. The accused before the Apex Court was arrested from the place where 350 kg of contraband was seized.

7. Thereafter on the basis of order of Hon’ble Apex Court, the co-accused - Amitkumar Hukumchand, whose role was not greater than the role attributed to the co-accused – Nikhilesh Bakshi, who is released on bail by the Apex Court, came to be released on bail by this Court vide order dated 12.05.2020 in Criminal Application (BA) No. 154/2020.

8. This Court also released the co-accused - Manish Singh vide order dated 22.06.2020 in LD-VC- Criminal Application (BA) No. 158/2020, who was arrested from the place this applicant was arrested with contraband (ganja) of 350 kg. In the said order, this Court has observed about joint possession of ganja of 350 kg with the co-accused persons.

9. As per the prosecution case, the present applicant including other three accused namely Manishsing, Nikhilesh Bakshi and Ramasjansingh were arrested from the same place.

10. The prosecution strongly opposed the bail on the ground that the present applicant was the owner of the truck in which ganja 1396.18 kg was found and the said truck was parked at the place where all those four accused persons were arrested.

11. It appears that though, the present applicant is said to be the owner of the truck wherein contraband of huge quantity was found, however, as observed by this Court in the order dated 22.06.2020, these accused were found to be in joint possession of the ganja. It appears that alleged truck was used for transporting the ganja.

12. At this stage, it can be said that the said contraband was in the possession of the present applicant individually. Considering the facts that other co-accused with more or less similar role attributed to them are already released on bail by Hon'ble Apex Court and this Court and since more than four years this accused is in jail and there is

no likely that the trial would commence and finish in the near future, I am inclined to allow the bail application and the same is accordingly allowed on the following conditions :-

ORDER

- i) The criminal application is allowed.
- ii) The applicant – Nagula Vijay S/o Sambashivudu Nagula, R/o. District Warangal, Telangana, shall be released on his executing P.R. Bond in the sum of Rs. 5,00,000/- (Rs. Five Lakhs only) with one local surety in the like amount.
- iii) The applicant shall also deposit the original title documents of his property or the property of his family members in Telangana, subject to the verification by the learned Trial Court.
- iv) The applicant shall report to the concerned Police Station on the first Monday of every quarter.
- v) Needles to say that in case of breach of any of the aforesaid conditions, the respondent/State will be at liberty to arrest the applicant.
- vi) The criminal application stands disposed of in above terms.

13. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

TAMBE

**Vithal
Choulwar**

Digitally signed
by Vithal
Choulwar
Date:
2020.08.18
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+0530