

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

CRIMINAL APPLICATION (BA) NO. 1115 OF 2020

(Deepak s/o Pandurang Chauhan vs. State of Maharashtra thr. PSO, PS Pachpauli, Nagpur)

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

Court's or Judge's orders.

Shri A.K. Bhangde, Advocate for the applicant.
Shri H.D. Dubey, APP for the non-applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
DECEMBER 14, 2020.

Heard Shri Bhangde, learned counsel for
the applicant and Shri Dubey, learned APP for the
non-applicant – State.

2. The affidavit-in-reply filed on behalf of
the non-applicant – State is taken on record.

3. The applicant is seeking bail in Crime
No. 122 of 2020 dated 12.03.2020 for the offence
punishable under Sections 20 and 29 of the Narcotic
Drugs and Psychotropic Substances Act (hereinafter
referred to as NDPS Act) registered by Pachpauli
Police Station, Nagpur.

4. The allegation against the present
applicant is that he along with two other co-accused

persons found in possession of Ganja worth Rs.2,67,490/- weighing 25 kilo 749 gms. which was purchased from Ijaj Ahmad for the purposes of resale.

5. The affidavit in reply filed on behalf of the prosecution shows that the seizure from the present applicant is to the extent of 2 kilo 125 gms. ganja.

6. The learned counsel for the applicant relies on the judgment of the Hon'ble Apex Court in the case of Amarsingh Rajibhai Barot vs. State of Gujarat, reported at 2006 ALL MR (Cri) 229 (SC), wherein it is held that where two accused persons were found together with heroine more than the commercial quantity but individually less than the commercial quantity, Section 29 of the NDPS Act is not attracted.

7. In the instant case, though the collectively seized quantity is more than commercial quantity, however, the quantity in possession of the applicant is less than the commercial quantity.

8. In these circumstances, considering the quantity seized and considering the aforesaid judgment of the Hon'ble Apex, this Court is inclined

to grant bail to the present applicant. In the circumstances, the Criminal application is allowed on the following conditions :

(i) The applicant – Deepak s/o Pandurang Chauhan, shall be released on bail on executing Personal Bond of Rs.30,000/- (Rs. Thirty thousand only) with one surety in the like amount.

(ii) The applicant shall not issue threats or tamper the prosecution witnesses.

(iii) The applicant shall attend Police Station once in a month on every first Thursday of the month.

9. Needless to mention that the observations made in this application are strictly for deciding the present application of the applicant and the trial Court shall not get influenced by the same and shall be free to decide the matter on its merits.

JUDGE

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