

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 385 OF 2021

1. Vishal S/o Chhagan Tamchikar
 2. Shersing S/o Ambu Indrekar
- Applicants

Versus

The State of Maharashtra

Respondent

Mr. R.S. Deshmukh, Senior Counsel instructed by Mr. D.R. Deshmukh, Advocate for the applicants.
Mr. S.P. Sonpawale, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 17th August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail.

2. Applicants No. 1 and 2 are accused of possessing *ganja* of 106 kg. which is a commercial quantity. Applicant No. 2 Shersing is the driver of Innova Car bearing No. MH-03-BC-2713. Police had received a tip-off that *ganja* was being transported in this Innova car. When this Innova car was intercepted at Mayur Park square,

Aurangabad, applicants No. 1 and 2 alighted from the vehicle and started running. They were caught. On inspection, *ganja* of 106 kg. worth Rs. 15,31,500/- was found. Usual procedure of taking sample was carried out and the accused were arrested. Along with the applicants, one Ashabai Makale and Ramabai Indrekar were also the occupants. They have been released by this Court by order dated 9th March, 2021.

3. Heard Shri Deshmukh, learned counsel for the applicants and Shri Sonpawale, learned APP for the State.

4. Learned Senior Counsel Shri Deshmukh submits that applicant No. 2 was the driver of the vehicle at the time when it was intercepted. He, therefore, submits that applicant No. 1 Vishal was simply a passenger in the vehicle. Applicant No. 1 had no knowledge about the *ganja* being carried in the Innova car. Applicant No. 2 also had no knowledge about the *ganja* being carried in the Innova car. He, therefore, submits that both the accused deserve to be released on bail.

5. Learned APP Shri Sonpawale submits that applicant No.

2 had gone to village Godawari, Telangana for procuring *ganja*. Applicant No. 1 is the resident of the same locality. Applicant No. 1 also had the knowledge of *ganja* being carried in the Innova car. He submits that statement of owner of Innova car makes it explicit that both the applicants knowingly transported *ganja*. He, therefore, prayed for rejection of the application.

6. Charge-sheet has been filed. Learned counsel Shri Deshmukh submits that this is the first application before this Court after filing of charge-sheet.

7. On perusal of the charge-sheet, it appears that *ganja* of 106 kg worth Rs. 15,31,500/- was being transported in Innova car. Applicant No. 2 Shersing was the driver of the car. Statement of owner of Innova car by name Aniruddha Joshi has been recorded. It shows that applicant No. 2 had hired Innova car from him. There is no evidence to show that applicant No. 1 has any connection with transportation of *ganja* in the Innova car. In this view of the matter, I am inclined to release applicant No. 1 on bail. Hence the following order :-

ORDER

1. Application is partly allowed.
2. Applicant No. 1 Vishal s/o Chhagan Tamchikar be released on PR bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. 0314/2020 registered at Harsool Police Station, Dist. Aurangabad, for the offences punishable under Sections 20, 29 of NDPS Act, on condition that he shall make himself available for trial.
3. Application to the extent of applicant No. 2 is rejected.

(M. G. SEWLIKAR)
Judge