

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 716 OF 2021

Swati W/o Sanjay Shinde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.S. More, Advocate for the applicant.
Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 23rd August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with C.R. No. 084/2021 registered with Osmanabad Rural Police Station, Osmanabad, for the offences punishable under Sections 8(C), 20(B)(ii)(c), 29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Prosecution case is that on 15th April, 2021, at about 7.30 pm, the informant got a tip off that contraband articles were being transported in a four wheeler bearing No. MH 03 BW 9056. When the Police Officers intercepted this vehicle and took search, *Ganja* weighing 27.989 kg worth Rs. 2,79,890/- was found. Accused Pintu

Shinde was the driver of this vehicle. One Rama Shinde was also found sitting in this vehicle. Along with them, applicant, who is a lady, was also sitting in the said vehicle. Usual procedure of collecting samples, taking search of the applicant and other accused was completed and First Information Report came to be registered against the applicant.

3. Heard Shri More, learned counsel for the applicant and Shri Ghayal, learned APP for the State.

4. Learned counsel Shri More submitted that the applicant has no concern with the contraband articles found in the four wheeler. She was a gratuitous passenger. There is nothing on record to show that she was having conscious possession of the contraband articles.

5. Learned APP submitted that the applicant has not adduced anything on record to show that she was a gratuitous passenger. He submitted that she was sitting in the vehicle and this itself clearly shows that she was in conscious possession of the contraband articles.

6. These contraband articles were found in the boot of the four wheeler. In terms of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the requirements for releasing on bail are that the applicant/accused must satisfy that there was reasonable ground for believing that the accused is not guilty of such offence and that the accused is not likely to commit similar offence again, if enlarged on bail.

7. Admittedly, *Ganja* weighing 27.989 kg, which is a commercial quantity, was found in the boot of the car. Nothing has been brought on record to show that the applicant had any personal relations or official relations with the accused who was driving the car and other accused who was sitting in the car. Prosecution could not collect any evidence to show that the applicant was instrumental in procuring these contraband articles. There is nothing on record to show that the applicant was in conscious possession of contraband articles. She is neither the owner of the car nor she had any blood relations with the other accused. Therefore, the possibility of the applicant being gratuitous passenger cannot be ruled out. There is nothing on record to show that the applicant had criminal antecedents. Therefore, there is no possibility of the applicant

committing the similar offence again. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) with one solvent surety in the like amount, in connection with Crime No. 0084/2021 registered at Osmanabad Rural Police Station, Osmanabad, for the offences punishable under Sections 8(C), 20(B)(ii)(c), 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, on condition that she shall not interfere in the investigation and shall not pressurise the witnesses and shall attend the concerned police station as and when required by the Investigation Officer to do so.
- iii) Application stands disposed of.

(M. G. SEWLIKAR)
Judge