

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 BAIL APPLICATION NO.897 OF 2021

Raghu s/o Arun Shinde
Age: 22 years, Occu.: Agriculture,
R/o. Pardhi Pidhi, Bhoom,
Taluka, District Osmanabad. ..Applicant.

VERSUS

State of Maharashtra,
Through Bhoom Police Station, Bhoom,
District Osmanabad. ..Respondent

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Advocate for Applicant : Shri Santosh S. Jadhavar
APP for Respondent : Shri S.D.Ghayal

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CORAM : M.G.SEWLIKAR, J.

DATE: 14th October, 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 Crime No.0149 of 2020, registered with Bhoom Police Station, District Osmanabad, under Section 20(b) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985
2. The allegations against the applicant are that the informant got the tip-off that Ganja was being transported in Car No.MH06 AB-6457. Car was accordingly intercepted. Four persons were

the occupants of the Car. On suspicion, Car was inspected and in the boot of the Car, two polythene bags were noticed. Those bags were smelling like Ganja. On enquiry, accused Datta Kale said that he had brought the Car from his friend Chandramani Gaikwad for temporary use. Accordingly, Car was brought to Police Station, Bhoom alongwith all the four occupants including the applicant. Usual procedure of taking sample, drawing panchanama was conducted. After disclosure of the offence, charge-sheet has been filed.

3. On perusal of the charge-sheet, it appears that statement of Chandramani Gaikwad was recorded. From the statements, it appears that father-in-law of brother of Chandramani Gaikwad is the owner of the said Car and this Car was given by Chandramani Gaikwad to accused Datta Kale. It also reveals from the charge-sheet that Datta Kale was instrumental in procuring contraband articles. There is no iota of evidence to indicate that the applicant had played any role in procuring the said Ganja nor there is any evidence to show that the applicant was aware that Ganja was being transported in the boot of the Car. In terms of Section 37 of the NDPS Act, before releasing any person accused of the offence under the NDPS Act, twin conditions have to be satisfied; one that there is no possibility of

conviction and second that the person accused of offence under the NDPS Act is not likely to commit similar offence again. In view of the discussions made above, there is no likelihood of the accused being convicted. There is nothing on record to show that the applicant had criminal antecedents. Therefore, applicant is not likely to commit similar offence again. Having regard to this, a case of bail is made out. Hence, the order:

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0149 of 2020, registered with Bhoom Police Station, Dist.Osmanabad, under Section 20(b) of the NDPS Act.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**(M.G.SEWLIKAR)
JUDGE**