IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 BAIL APPLICATION NO. 1063 OF 2021

SHAIKH MOHSIN S/O. ABDUL RASHID
VERSUS
THE STATE OF MAHARASHTRA

Shri. B. N. Gadegaonkar, Advocate for the applicant
Shri. S. D. Ghayal, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 07 OCTOBER, 2021

PER COURT :-

1. Heard.

2. Learned counsel Shri. Gadegaonkar for the applicant states that *ganja* of 40.100 Kilograms has been seized from four wheeler Honda City car. He further submits that the applicant was driving Swift Dzire car. He has been arrested simply because he belongs to the same area in which accused No. 1 resides.

3. Learned APP does not dispute this position. He states that no contraband article has been recovered either

from the applicant or from Swift Dzire car. However, he states that cash of Rs.4,300/- was recovered from the applicant. Applicant is the driver of the said Swift Dzire car. He submits that considering the evidence application deserves to be rejected.

4. From the FIR and investigation papers produced by learned APP it appears that *ganja* of 40.100 Kilograms was recovered from Honda City car. Admittedly, applicant was not driving the Honda City car. He was driving Swift Dzire car. Admittedly, no contraband article was recovered from the applicant. In this view of the matter, there is no possibility of conviction of the applicant. There are no criminal antecedents indicating that he would commit similar offence again. In this view of the matter, case for bail is made out. Hence the order.

ORDER

1. Application is allowed.

2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with

one solvent surety in the like amount in connection with CR No. 527 of 2021 under Section 20(b) of the NDPS Act registered with Nanded (R) Police Station, Dist. Nanded and on condition that he shall remain present before the concerned Investigating Officer as and when required to do so by the Investigating Officer.

3. Application is disposed of.

4. 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, J.]

ssp