

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

926 BAIL APPLICATION NO.1494 OF 2020

JAYYOGESHWAR @ YOGESH DAGU @ DATTU GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Natu Sharad V.
APP for Respondent-State : Mr. A. S. Shinde.
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CORAM : V. K. JADHAV, J.
DATE : 07.01.2021

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.7 of 2019 registered with Ashwi Police Station, Taluka Sangamner, District Ahmednagar for the offences punishable under Sections 22(G) and 25 of Narcotic Drugs and Psychotropic Substances Act. His application with similar prayer below Exh.39 in Special Case No.1 of 2019 came to be rejected by the learned Additional Sessions Judge, Sangamner, District Ahmednagar.

2. The learned counsel for the applicant submits that, the investigation is over and the charge-sheet has been submitted. The applicant is detained in jail in connection with the present

crime since 12.10.2020. The learned counsel submits that co-accused Ganesh was caught red handed in a car along with the commercial quantity of Ganja. He has been released on bail. The learned counsel submits that except one CCTV footage at one Toll Naka, near Tuljapur, wherein the presence of the applicant allegedly noted in the said car, there is no further connecting evidence against the applicant. The learned counsel submits that except the confessional statement of the applicant himself before police about his presence in the car at the relevant time, which is not admissible, there is no connecting evidence against the applicant. The applicant is having a fixed place of residence. He is easily available for trial. The applicant may be released on bail.

3. The learned APP has strongly resisted the application on the ground that in CCTV footage, the presence of the applicant in the car was noted, before the car was raided by the police at one Toll Naka. The learned APP submits that in terms of the provisions of Section 37 of the NDPS Act, the applicant may not be released on bail. There is one crime registered against the applicant bearing Crime No.I-807 of 2020 in Sangamner Police Station under the provisions of Saction 20 and 29 of

NDPS Act and as such there is every possibility of committing the similar offence, if the applicant is released on bail. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that the name of the applicant is not mentioned in the FIR. It further appears that the applicant is arrested on suspicion merely on the basis of one CCTV footage collected from the Toll Naka, near Tuljapur. There is no further identification of the applicant to the extent that he was travelling in the said car at the relevant time. There is confessional statement of applicant to that extent, however, the same is not admissible in evidence. There is only one crime registered against the applicant, however, it appears that on the basis of the said crime alone, the applicant is arrested in connection with the present crime on suspicion. I do not think that the bar under Section 37 stands attracted. The applicant is having a fixed place of residence and easily available for trial. Thus, by imposing certain conditions, I am inclined to release the applicant on bail. Hence, following order :

ORDER

1. The application is hereby allowed.
2. The applicant JAYYOGESHWAR @ YOGESH DAGU @ DATTU GAIKWAD in connection with Crime No.7 of 2019 registered with Ashwi Police Station, Taluka Sangamner, District Ahmednagar for the offences punishable under Sections 22(G) and 25 of Narcotic Drugs and Psychotropic Substances Act, be released on bail on furnishing P.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent surety of the like amount on the following condition :-
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-