

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

916 BAIL APPLICATION NO.1329 OF 2021

Ramesh Prakash Jadhav
Age: 34, Occu.: Driver,
Residing at Sai Krupa Chawl,
Uthalsar Road, TMC Office,
Uthalsar, Jogila Market,
Thane West, Maharashtra -400601. ..Applicant

VERSUS

State of Maharashtra
(Through Thalner Police Station,
Thalner, Dist.Dhule) ..Respondent

...
Advocate for Applicant : Shri Shekhar Bhandary h/f.
Shri Swapnil S. Patil
APP for Respondent : Shri S.W.Munde

...
CORAM : M.G.SEWLIKAR, J.

DATE: 30th November, 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.23 of 2021, registered with Thalner Police Station, District Dhule, under Sections 20(B), 20(C), 22, 22(c) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

2. Informant, who is a Police Sub-Inspector, Thalner Police Station, District Dhule, received secret information that contraband articles i.e. Ganja was being transported in car No.MH-04 JV-0212. Accordingly, the informant and his staff raided the spot. They spotted the said car. It was intercepted. On taking search of the car, Ganja weighing 26 Kilos 900 Grams was found in a gunny bag kept in the boot of the said car. Usual procedure of taking samples was carried out and thereafter FIR came to be lodged on the basis of which Crime under the aforesaid Sections came to be registered.

3. Heard Shri Shekhar Bhandary, learned counsel holding for Shri S.S.Patil, learned counsel for the applicant and Shri S.W.Munde, learned APP for the respondent-State.

4. Spot panchanama shows that husk of Ganja was seized. The same was forwarded to the Forensic Science Laboratory vide letter dated 16th June, 2021. It appears that this Ganja was examined by the Assistant Chemical Analyst on 22nd June, 2021 and it was completed on 24th June, 2021, which means within 15 days the said contraband article was examined. On perusal of C.A. report, it is seen that Office of Chemical Analyst

received flowering/fruited tops with greenish coloured leaves, seeds and stalks, put in a polythene bag again put in a packet labelled - A-1 and also labelled "Police Station - Thalner". Report shows that the said property is sample of Ganja. From this report, it is evident that what Chemical Analyser received was flowering/ fruited tops with greenish coloured leaves, seeds and stalks. Whereas the contraband article seized was Ganja in husk form. Therefore, it clearly goes to show that the contraband article which was seized was not sent to the Chemical Analyser. Therefore, alleged contraband article which was seized was not examined by the Chemical Analyser. Thus, there is no evidence to show that the material which was found with the accused was contraband article. In this view of the matter, it cannot be said that there is any possibility of conviction being recorded against the accused. Therefore, applicant comes out of rigors of Section 21 of the NDPS Act.

5. Shri Munde, learned APP for the respondent-State submits that the letter forwarded by the Investigating Officer clearly shows that contraband article i.e. Ganja in husk form was forwarded. The Office of the Chemical Analyser seems to have committed a mistake. Only during the trial, it will be clear as to

whether there was a mistake committed by the Chemical Analyser or it was a mistake committed by the Investigating Officer. At this stage, it cannot be said that there is possibility of conviction of accused. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order:

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.50,000/- (Rs. Fifty thousand only) with one solvent surety in the like amount, in connection with Crime No.23 of 2021, registered with Thalner Police Station, District Dhule, under Sections 20(B), 20(C) 22, 22(c) 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