

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1594 OF 2020

SHANKAR MARUTI DEVMARE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Lokesh Zade i/b. Mr.Raju Mate, Advocate for the Applicant.

Smt.PP.Shinde, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 17th NOVEMBER 2021
PRONOUNCED ON : 24th NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.64 of 2020 registered with Police Station Rajarampuri, Kolhapur, for offences punishable under Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

2 It is the case of prosecution that on 13th February 2020, Rajarampuri Police Station, Kolhapur, received an information that a person will be coming behind SLK at or around 5 p.m. to sell ganja. The raid was accordingly carried out and the suspect was apprehended who revealed his name as Manjunath Mandgodli (A-1). He was found in possession of 640 grams of ganja. Later on, he revealed that the ganja was brought from Pandharpur and that he regularly used to purchase contraband from Amit Shanka Devmare (A-2) and Shankar Maruti Devmare (applicant- A-3). It further appears that on the basis of said information, the applicant (A-3) was arrested and during the course of investigation, the said applicant gave disclosure statement under Section 27 of the Indian Evidence Act, pursuant to which ganja weighing 21.680 kgs. was recovered from the house of A-2 and A-3 (applicant). Later on, First Information Report (FIR) came to be lodged.

3 Mr.Lokesh Zade, learned counsel for the applicant, submits that it is only on the basis of statement of accused

Manjunath Mandgodli that the name of present applicant and his father came to be revealed and later on, on the basis of disclosure statement given by accused Amit (A-2), the alleged contraband was recovered from the house. According to the learned counsel, the said house is not in his name and moreover, he was not found in possession of the contraband and in such circumstances, the applicant has made out a case for bail.

4 Smt.Shinde, learned APP, on the other hand, does not dispute that the name of the applicant was revealed by Amit (A-2) and that the alleged contraband came to be recovered at the instance of accused Amit Devmare. According to the learned APP appropriate order may be passed.

5 I have carefully gone through the FIR and the investigation papers. There is no dispute that the name of the present applicant was revealed by Manjunath (A-1). Then there is disclosure statement of accused Amit Devmare (A-2) at whose instance alleged contraband in question came to be seized from

the house. Admittedly, nothing was seized or recovered at the instance of the applicant. Apart from above material, there is nothing on record to prove the complicity of the applicant in the alleged offence. No other criminal antecedents are forthcoming.

6 In view of above, I am inclined to allow the application. Hence, I pass the following order :

ORDER

- (i) The application is allowed.
- (ii) Applicant – Shankar Maruti Devmare shall be released on bail in Crime No.64 of 2020 registered with Police Station Rajarampuri, Kolhapur, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts either to the Court or to any Police

Officer.

(iv) The applicant shall not tamper with prosecution evidence in any manner and shall co-operate the learned trial Judge in expeditious disposal of the trial against him.

(v) The applicant shall not indulge in similar type of offences in future.

(vi) Bail before the trial Court.

(vii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(viii) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(ix) The application stands disposed off accordingly.

(V. G. BISHT, J.)