

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO. 2031 OF 2021

Bhimrao Sitaram Pawar
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr. Jadhav Swaraj Sanjay for the Applicant

Mr. Ajay Patil, A.P.P for the Respondent–State

PSI Mr. Gavande from Crime Branch, Unit-1, Pimpri Chinchvad, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 17th SEPTEMBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 377/2020 registered with the Chikhli Police Station, Pune, for the alleged offences punishable under Sections 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act.

3 Learned counsel for the applicant submits that there is no material to connect the applicant with the alleged offence. He submits that

the reliance placed by the prosecution on the statement made by the applicant to the police is inadmissible and hence, cannot be considered. He submits that apart from the same, there is no material to connect the applicant with the alleged offence.

4 Learned A.P.P opposes the application. He, however, does not deny the fact that except the statement made by the applicant to the police, which is inadmissible, there is no material to connect the applicant with the alleged offence.

5 Perused the papers. According to the first informant, constable-Pramod Lande, the incident took place on 17th October 2020, when he alongwith Sr. PI and other team members, were patrolling and keeping a tab on the illegal activities during the Navratri festival. According to the first informant, while doing so, they came across a team of the Narcotics Control Bureau ('NCB') who were also patrolling and as such, both teams started patrolling together. It is alleged that at around 1:00 p.m, they saw two persons who were moving around in a suspicious manner under a tree, pursuant to which, they made inquiries with the said persons. On search, a gunny bag containing Marijuana was found in their possession. The names of the said persons who were standing under the

tree were Rahul Pawar and Amol Shinde i.e. original accused Nos. 1 and 2. Pursuant to the seizure of narcotics, FIR was lodged as stated aforesaid.

6 Admittedly, nothing was seized or recovered at the instance of the applicant. The alleged statement made by the applicant to the police is clearly inadmissible in law. Apart from the said evidence, there is no material to connect the applicant with the alleged offence. Although the applicant has similar antecedents, that by itself, cannot be a ground to reject the applicant's application for bail, having regard to the material on record *qua* the applicant, in the present case.

7 Accordingly, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local solvent sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m, until further orders;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of on the aforesaid terms

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

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.