

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

CRIMINAL BAIL APPLICATION NO. 1681 OF 2020

Shobha Manohar Bhopi ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Sandeep R. Mishra, Advocate for the Applicant.

Mrs. M. R. Tidke, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th JANUARY, 2021.

PER COURT:

1. The applicant is arrested on 17th September, 2020 in connection with C.R. No. II-163 of 2019 registered with Nerul Police Station, Navi Mumbai for offence under Section 8(C) r/w Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The case of the prosecution is that, on secret information received by the complainant that one person is selling ganja at Sector No. 28, Nerul, Navi Mumbai, search was carried out and one person was apprehended on the spot. He was found in possession of ganja weighing 1 Kg. 200 grams. He was arrested. During the course of investigation the arrested accused disclosed that he had purchased

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ganja from the applicant. First Information Report was registered on 5th April, 2019.

3. The arrested accused found in possession of ganja was granted bail by the NDPS Special Court vide order dated 17th April, 2019 on the ground that quantity of ganja recovered from him is not commercial and rigour of Section 37 of the NDPS Act is not applicable.

4. The application preferred by the applicant was rejected by learned Special Judge by order dated 2nd December, 2020.

5. Learned advocate for the applicant submitted that there is no recovery of contraband from the applicant. The co-accused, who was found in possession of ganja has been released on bail. There is no evidence to show that the involvement of applicant in the crime.

6. Per contra learned APP submitted that the applicant is peddler. The co-accused had disclosed that the ganja was procured by him from the applicant. The applicant is involved in illegal activity of selling liquor. Three other cases are pending against the applicant, out of which two cases are under the provisions of NDPS Act.

7. Undisputedly, the contraband ganja was recovered from

accused No.1. The said accused has been granted bail by the trial Court. The quantity was non commercial. The trial Court while rejecting the bail application of the applicant had primarily rejected the same on account of criminal antecedents of the applicant. However, it is pertinent to note that, except the statement of co-accused which cannot be relied upon, there is nothing on record to show the complicity of the applicant in the crime. The investigation is completed and the charge-sheet has been filed. Hence, on stringent conditions bail can be granted to the applicant.

ORDER

- (i) Bail Application No.1681 of 2020 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. II-163 of 2019 registered with Nerul Police Station, Navi Mumbai on executing PR. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) The applicant shall report Nerul Police Station, Navi Mumbai once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) In the event the applicant is found involved in any similar crime in future, prosecution will be at liberty to prefer application for cancellation of bail.

(v) Application stands disposed of accordingly.

8. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)