

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

**CRIMINAL BAIL APPLICATION NO. 1677 OF 2020**

Tara Raghvendra Tripathi .... Applicant

Versus

The State of Maharashtra .... Respondent

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Ms. Zehra Charania i/b. Munira Palanpurwala a/w. Mushtaq  
Shaikkh for Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

Mr. H. K. Ghadge, API, Kalamboli Police Station, present.

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**CORAM : SARANG V. KOTWAL, J.**

**DATE : 10<sup>th</sup> FEBRUARY, 2021**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No. II 44 of 2020 registered with Kalamboli police station, on 07/02/2020, under sections 8(c), 17(b) r/w.29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). The applicant was arrested on 06/02/2020 and since then she is in custody.

2. Heard Ms. Zehra Charania, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by police constable Sanjay Bhore. He has stated that, on 06/02/2020 the police officers received a secret informant at about 4:20p.m. that one man and two women were about to come near Plot No.1630 adjacent to Kalamboli railway station for selling Opium. The police officers entered the information in the Station Diary and report of that entry was given to the superior police officer. Permission to conduct the raid was obtained, panchas were called and preparation was made to carryout raid. The police and panchas went to the spot mentioned in the information. At about 8:20p.m. the police party reached the spot and kept watch. Within a short time, one man and two women came there, they were accosted. One of them was present applicant. The accused were informed about their right under section 50 of the NDPS Act. Search of their person was taken. The women were searched by lady police officers. They were found carrying packets. Accused Paresh was found with 975 gms. of opium. Accused Nikhat was

found with 794 gms. of opium and the applicant was found with 540 gms. of opium kept in a plastic bag. The samples were tested with testing kit. The result showed that it was opium. Contraband samples were seized for investigation purpose and accused were arrested.

4. Learned counsel for the applicant submitted that the commercial quantity for opium as mentioned in the Schedule of the Act is 2.5Kg. The applicant was found with 540 gms. of opium which is much lesser than commercial quantity. She further submitted that even assuming that all of them were together and if total quantity of contraband found with them is measured, it was only 2.309 Kg. which is also lesser than commercial quantity. She, therefore, submitted that rigours of section 37 of the Act are not applicable. The applicant is in custody since 06/02/2020. Her further custody is not necessary. The minimum sentence is not provided, though, the sentence can be extended upto 10 years as per section 17 of the Act.

5. Learned APP relied on the statements in the charge-sheet and opposed this application.

**REASONS:**

6. With the assistance of the learned counsel for the applicant, as well as, learned APP I have perused the charge-sheet. The charge-sheet contains statements of other police officers who were members of the raiding party and panchanama carried out in respect of raid. At this stage, the prosecution story is sufficiently established that three persons were found at the spot on prior information carrying opium. However, as rightly submitted by the learned counsel for the applicant, the opium found with the applicant was of lesser quantity than commercial quantity. Even adding together all the opium carried out by three persons, still quantity was lesser than commercial quantity. In this view of the matter, rigours of section 37 of the NDPS Act will not apply. The applicant is a lady. She is in custody since 06/02/2020. Learned counsel for the applicant submitted that there were not antecedents against the present applicant. Learned APP, on instructions, could not controvert this position. In this view of the matter, the applicant can be granted bail in this case.

7. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No. II 44 of 2020 registered with Kalamboli police station, the applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station once a month for a period of one year from today and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**