

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (ABA) No. 237 of 2021

(Salim s/o Ibrahim Mirza ..vs.. State of Maharashtra through P.S.O., P.S., Badnera, Dist. Amravati)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. K. Bhangde, Advocate for the applicant
Mr. N. S. Rao, APP for the State

CORAM : ROHIT B. DEO, J.

DATED : 07-04-2021

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. The applicant is apprehending arrest in Crime 0118/2021 registered with Police Station, Badnera, Amravati City, Dist. Amravati for the offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Learned counsel Mr. Ashok Bhangde submits that only incriminatory material is the disclosure by the co-accused and the call record which according to the investigating agency reveals that the applicant was in touch with the co-accused. Mr. Ashok Bhangde invites

my attention to the order dated 21-1-2020 in Bail Application No. 198 of 2019 which relies on the decision of the Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu*** delivered in Criminal Appeal No. 152 of 2013.

4. The case of the prosecution is that ganja (marijuana) weighing 13.5 Kgs came to be seized from the co-accused.

5. The role of the applicant surfaced during the course of investigation.

6. Reliance on the decision of the learned Single Judge referred to supra is clearly misplaced. It need not be emphasized that the parameters for deciding regular bail application and an application seeking pre-arrest protection are essentially different. The investigation is ongoing. While the statement of the co-accused *per se* may not be admissible during the course of the trial, the material which has surfaced till date appears to be sufficient to give an opportunity to the investigating agency to arrest and custodially interrogate the applicant.

7. The past record of the applicant does not appear to be clean and the learned Special Judge has noted that the applicant is facing two prosecutions vide crimes registered with Police Station, City Kotwali.

8. No discretion can be exercised in favour of the applicant, particularly, since it cannot be said that there are reasonable grounds for believing that the applicant is not guilty.

9. The application is dismissed.

JUDGE

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