

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

CRIMINAL APPLICATION [BA] NO. 497/2021.

Shivaji Trayambak Shelke

-VERSUS-

The State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Nihalsingh Rathod, Advocate for the Applicant.
Shri S.A. Ashirgade, Advocate for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : JUNE 23, 2021.

Hearing was conducted through Video
Conferencing.

2. The applicant came to be arrested by police of Sakhar Kherda Police Station, District Buldhana in connection with Crime No.115/2021 for the offence punishable under Sections 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Bail is prayed by claiming innocence, false implication, inadequacy of material and non-compliance of statutory provisions. It is primely contended that, as per the prosecution case the seized contraband article

2

i.e. Ganja is less than the commercial quantity, and therefore, bar created under Section 37 of the Act would not apply.

3. The State has resisted the bail by filing reply-affidavit. It is contended that the applicant was found in possession of dry ganja leaves and ganja plants total weighing 12.401 kg, worth Rs.42,875/-. Samples were taken and sent for Chemical Analyzation of which report confirms that the seized articles are contraband. Having regard to the seriousness of the offence, bail is prayed to be rejected.

4. It is the prosecution case that on receiving information they visited the agricultural field owned by the applicant. On thorough search they found some dried ganja leaves kept in a gunny bag and live ganja plants. The police have completed the formalities and after drawing panchnama, seized all contraband articles. The learned Counsel for the applicant has criticized the manner of raid to impress that it was impossible to complete all the formalities within one hour from receipt of the information till the proceeding for raid.

3

5. There is no dispute that the seized ganja was of intermediate quantity. The reply affidavit indicates that investigation is practically completed and charge sheet is likely to be filed very soon. The applicant is an old aged person of 67 years. The applicant is only charged for offence punishable under Section 20 of the Act, which may attract maximum punishment of imprisonment of 10 years. The prosecution has not shown any antecedents against the applicant. Having regard to all these facts, the applicant has made out a case for grant of bail, hence, the following order.

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant/accused- Shivaji Tryambak Shelke is released on bail in connection with Crime No.115/2021 registered with Sakhar Kherda Police Station, District Buldhana for the offence punishable under Sections 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on his furnishing P.R. Bond in the sum of

4

Rs.25,000/- with one or two sureties in the like amount.

- (iii) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (iv) Misc. Applications if any, also stands disposed of.

Rgd.

JUDGE