

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

CRIMINAL APPLICATION (BA) NO. 507/2021

Ajay Shyam Dupare

VERSUS

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 S. V. Sirpurkar, Advocate for applicant.
Shri S. A. Ashirgade, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : 30.06. 2021.

Hearing was conducted through Video
Conferencing.

2. The applicant is seeking bail in Crime No. 1214/2020 for the offence punishable under Sections 8(c) read with Section 21(b) of the Narcotic Drug and Psychotropic Substances Act, 1985 (for short 'NDPS' Act). The bail is primarily claimed on the ground that the rigour of Section 37 of the NDPS Act would not apply since the alleged seizure of contraband namely brown sugar was weighing 49.00 grams which is lesser than

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commercial quantity. Secondly, technical objection about non-compliance of provision of Section 50 of the NDPS Act has been raised. The State resisted bail by filing reply-affidavit. The State has not disputed that the seized quantity of contraband is less than commercial quantity, however, bail is resisted on the point of criminal antecedents and chances of tampering.

3. It is the prosecution case that on 23.12.2020, on receiving secrete information, the Police have accosted the applicant and during his personal search, found 49.00 grams brown sugar worth Rs. 49,000/- which was seized and the requisite procedure was followed.

4. Having regard to the admitted fact that seized brown sugar is lesser than the commercial quantity, the stringent requirement of Section 37 of the NDPS Act have no application. The applicant has arguable grounds on the front of technical compliance. The prosecution has pointed

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only one previous offence which was not under the NDPS Act and hence, it cannot be said that there are chances of repetition of crime. The aspect of tampering the prosecution witnesses can be taken care of by imposing certain conditions.

5. Having regard to over all view of the matter, the applicant has made out a case for grant of bail, hence following order:-

(I) Application stands allowed.

(II) Applicant Ajay Shyam Dupare is released on bail on his furnishing P.R. Bond of Rs. 50,000/- with one solvent surety in the like amount.

(III) The applicant shall attend concerned Police Station on first Monday of each month between 10.00 a.m. to 12.00 noon for the period of one year from today.

(III) The applicant shall not directly or indirectly make any inducement, threat or promise

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to any person acquainted with the facts of the case,
as also shall not tamper with the evidence.

6. Breach of either of the condition will
give rise to the prosecution to move this Court for
cancellation of bail.

JUDGE

Gohane.