

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

CRIMINAL APPLICATION (BA) NO.577 OF 2021

(Narsing s/o Oshanna Ramagiri Vs. State of Maharashtra thr. PSO PS Shivaji Nagar,
Khamgaon, Tq. Khamgaon, Dist. Buldhana)

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

Court's or Judge's orders.

Mr. S.S. More, Advocate for Applicant.
Mr. N.S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 30th JULY, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is seeking bail in connection with Crime 49/2021 registered with Police Station Shivaji Nagar, Khamgaon, District Buldhana for offence punishable under section 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. It is indubitable that the cannabis/ganja seized is commercial quantity (85.850 Kg.) and therefore, the twin conditions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) will have to be satisfied for considering the entitlement to bail.

4. The case of the prosecution is that Mahindra Max vehicle which was proceeding from Adilabad to Akola was intercepted on the basis of secret information received that the vehicle was transporting contraband. The applicant,

who was driver of the vehicle and co-accused Atmaram and Malkan were detained, the vehicle was searched after following the requisite formality and the ganja was recovered.

5. The thrust of the submission canvassed is that the applicant was a driver, who was unaware of the transportation of the contraband.

6. Interestingly, in the application preferred before the learned Special Judge, the applicant has joined hands with the other two accused, and moreover, in the application while the co-accused Atmaram and Malkan are both referred to as the passengers, the applicant claimed to be unaware that the vehicle was transporting contraband. *Prima facie*, it is not possible to believe the version of the applicant and it would only be in the trial that the defence can be tested.

7. Considering the material on record, it would not be possible to record a satisfaction that reasonable grounds exist to believe that the applicant is not guilty.

8. In this view of the matter, the application is rejected.

JUDGE