

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

Criminal Application (BA) No. 637 of 2021

(Komallu Shatram Gughlot ..vs.. State of Maharashtra through P.S.O., P.S. Ramnagar, Chandrapur)

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

Court's or Judge's orders

Mr. A. D. Hajare, Advocate for the applicant
Mr. N. R. Rode, APP for the State

CORAM : ROHIT B. DEO, J.

DATED : 05-07-2021

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

2. Issue notice.

3. Learned Additional Public Prosecutor Mr. Rode waives service for the State/non-applicant.

4. The applicant is facing trial for offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) vide Crime 771/2019 and is in custody since 11-6-2019.

5. Learned counsel for the applicant Mr. Anuj Hajare canvassed three submissions in support of the application.

6. The first submission is that the weight of the contraband which is determined as 59 Kgs and 560 gms includes weight of moisture, and if excluded, the quantity could as well be less than 20 Kgs which is the commercial quantity.

7. This submission is noted only for rejection.

8. At this stage, it is not possible to consider inherently, incredible and at any rate speculative argument that the weight of the *ganja* may reduce by more than 39 Kgs.

9. The second submission is that the applicant is aged 76 years and that he is entitled to bail on humanitarian ground.

10. Notably, the applicant is already facing another prosecution for similar offences under the NDPS Act. In

any event, NDPS Act is a special enactment and Section 37 thereof provides for stringent conditions. It would not be permissible in law to grant bail to the applicant on purely humanitarian ground.

11. The third submission is that the applicant was not in conscious possession of the contraband. Mr. Anuj Hajare invites my attention to the statement of the applicant which is recorded by the police. It would not be appropriate to make any decisive observation. However, since learned counsel Mr. Hajare relies on the said statement in support of the application, I am constrained to observe that the statement as a fact militates against the defence that the applicant was not in conscious possession.

12. I have perused the charge-sheet and I am satisfied that there is more than ample material on record to *prima facie* connect the applicant with the crime. It is not possible to record a satisfaction that there are reasonable grounds for believing that the applicant is not guilty nor can a satisfaction be recorded that the

applicant is not likely to commit any offence while on bail, particularly, since the applicant is already facing another prosecution/trial for similar offence.

13. The application is dismissed.

JUDGE

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