

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

CRIMINAL APPLICATION (BA) NO.932 OF 2021

(Ansar Khan Israil Khan Vs. State of Maharashtra thr. PSO PS Paratwada, 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. Mahesh Rai, Advocate for Applicant.
Mrs. K. R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 15th SEPTEMBER, 2021.

The applicant is seeking bail in connection with Crime 344/2021 registered with Police Station Paratwada, District Amravati for offences punishable under sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) Act.

2. The case of the prosecution is that secret information was received on 28.05.2021 that one person is selling *ganja* in front of his house at Athwadi Bazar, Paratwada.

3. The police apprehended the said person, who is the applicant herein, followed the statutory protocol and searched the person of the applicant, however, nothing objectionable was found. The case of the prosecution is that it is the applicant who disclosed that he resides in a near by

located house. The further case of the prosecution is that the police suspected that the search of the premises may yield contraband, and therefore, the premises was searched and *ganja* weighing 1 kg 389 grams was found in the house.

4. The contraband seized is less than the commercial quantity and therefore, the rigors of section 37 would not apply.

5. Testing the entitlement to bail on the touchstone of section 439 of the Criminal Procedure Code (Code), two circumstances are striking. The first is that there is no prior information, much less which is recorded under section 42 of the Act, referring to the residential house as such. The second circumstance is that other than the say of the raiding squad that the applicant revealed his place of residence, there is nothing on record to establish the exclusive possession of the applicant as regards the house in question, which is even according to the prosecution owned by Mr. Miyakha Jahagirkha who is not related to the applicant.

6. It is pointed out by the learned APP Mrs. Deshpande that a similar offences registered against the applicant in the year 2012. The submission is duly noted. However, in view of the material on record, I am not inclined to reject bail only on the ground that in 2012 the applicant indulged in similar offence.

7. The applicant has made out a case for grant of bail.

8. The application is allowed.

9. The applicant be released from custody subject to the following conditions:

- (i) The applicant shall execute the personal bond of Rs.16,000/- with one solvent surety of like amount.
- (ii) The applicant shall not indulge in any criminal activity while on bail.
- (iii) The applicant shall not misuse the liberty and if the applicant is found involved in any offence while on bail, the bail may be cancelled if an appropriate motion is moved.
- (iv) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.
- (v) The applicant shall not leave the country without the permission of the jurisdictional Court.

JUDGE