

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

CRIMINAL APPLICATION (BA) 972 OF 2021

(Sukhbirsingh s/o. Chalansingh Sukku..vs.. State, thr PSO, PS Katol,Nagpur)

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

Court's or Judge's orders.

M. C.B. Barve, counsel for applicant.
Mr. N.R. Rode, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.

DATE: 30.11.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 347/2016, registered with Police Station Katol, District Nagpur, for offences punishable under sections 8(c), 20,22,29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

3. As many as fourteen persons are arraigned as accused, and the applicant is accused 8. The applicant is the only accused who is in custody and all others are released on bail.

4. The contraband was seized from co-accused Amitsingh and Vijaypal, who were travelling in a car

which met with an accident. When the police reached the spot, Cannabis (Ganja) was found stored in the boot space of the car.

5. I have scrutinized the material in the chargesheet, and having done so, prima facie, I do not find any material to connect the applicant with the crime which if translated into admissible evidence would be incriminatory.

6. The learned APP Mr. N.R. Rode, however, opposes the bail vehemently and not entirely without justification. It is pointed out that while the applicant was released on temporary bail to attend the marriage of his son, he did not report to the prison after the expiry of the bail period and was apprehended only after one year. It is further submitted by the learned APP that while on bail, the applicant is involved in an offence punishable under the Indian Arms Act.

7. Ordinarily, I would have dismissed the bail application on the ground that the applicant misused

the liberty. However, I am not inclined to do so since prima facie, there is absolutely no material against the applicant in the substantive crime in connection with which he is seeking bail. Denial of bail in such circumstances would only be punishing the applicant for misusing the liberty. Such denial would be akin to a pre-trial punishment since the chances of the applicant being convicted in the present crime are bleak. I hasten to add that this is a prima facie observation which shall not prejudice the prosecution during the course of trial.

8. Considering the material on record, I have no hesitation in recording a satisfaction that reasonable ground exists to believe that the applicant may not be involved in commission of offence under the NDPS Act and that he is not likely to commit offence under the said Act if released on bail.

9. However, stringent conditions will have to be imposed.

10. The application is allowed subject to the

following conditions:

(i)The applicant be released from custody in connection with Crime 347/2016, registered with Police Station Katol, District Nagpur, for offences punishable under sections 8(c), 20,22,29 of the Narcotic Drugs and Psychotropic Substances Act, subject to he furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand) and depositing cash security of Rs. 1 lac (Rupees One Lac). The applicant shall additionally furnish solvent surety in the sum of Rs. 1 lac (Rupees One Lac). The jurisdictional Court shall be satisfied that the surety is a respectable and reputed permanent resident of Nagpur.

(ii)While on bail, the applicant shall not indulge in any criminal activity and shall attend each date of hearing scrupulously. Even a singular default or breach of this condition shall ipso facto entail in cancellation of bail, if an application is moved by the prosecution or any interested person;

(iii)The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

(iv)The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede