

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

CRIMINAL APPLICATION (BA) 1027 OF 2021

(Ashwini d/o. Suresh Day..vs.. State, thr PSO, PS Ganeshpeth, District Nagpur)

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

Court's or Judge's orders.

Mr. V. Avchat, counsel for applicant.
Mr. M.K. Pathan, 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 187/2021, registered at Police Station Ganeshpeth, District Nagpur, for offences punishable under sections 8(c), 20(b)(ii), 22(c), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

3. Pursuant to secret information received, M.D. drug of commercial quantity and Charas was seized from co-accused Salman, who allegedly came from Mumbai to Nagpur to sell the said contraband.

4. Salman disclosed that the supply was meant

for person having mobile 8806523444 and that the contraband was supplied to him by Asif Khan.

5. The mobile number belonged to co-accused Abid Ansari and the Call Detail Report show that the maximum calls received at the said number were by one Shardul Ramteke. Shardul Ramteke was interrogated and he disclosed during investigation that the said mobile was used by the applicant Ashwini. Shardul Ramteke allegedly further disclosed that Ashwini is involved in drug business alongwith co-accused Abid Ansari, who reside together.

Abid Ansari was arrested on 18.9.2021 and was found in possession of 3 grams and odd M.D. powder.

6. Salman allegedly disclosed that in his earlier visit on 9.5.2021, he handed over 10 grams M.D. to applicant Ashwini and Abid then disclosed that 3 grams and odd MD drug seized from him was part of the 10 grams purchased by the applicant Ashiwini from Salman during Salman's earlier visit. The law as it

stands today is that the statement recorded under section 67 of the NDPS Act would not be admissible. If the inadmissible part of the incriminating material is kept out of the consideration, the only material, which according to the prosecution, is incriminatory, is that applicant Ashwini called Abid Ansari on his mobile number. Even according to the material on record, Ashwini and Abid appear to be in a relationship, and therefore, no inference can be drawn from the exchange of calls between them, of complicity in the crime.

7. At this stage at least, there is no clinching material to connect the applicant with the crime. This is only a prima facie observation made for the purpose of deciding the entitlement to bail and is made on the basis of material which is on record as on today.

8. A satisfaction can be recorded that reasonable grounds exists to believe that the applicant may not be involved in offence under the NDPS Act and that if released on bail, she is not likely to commit any

offence under the NDPS Act.

9. It is pointed out by the learned APP that two earlier offences are registered against the applicant. Neither is under the NDPS Act. The offences are not very serious. I am inclined to grant bail.

10. The application is allowed subject to the following conditions:

(i)The applicant be released on bail in connection with Crime 187/2021, registered at Police Station Ganeshpeth, District Nagpur, for offences punishable under sections 8(c), 20(b)(ii), 22(c) and section 29 of the Narcotic Drugs and Psychotropic Substances Act, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

(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