

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

Criminal Application (BA) No. 1080 of 2021

[Prafulla @ Balu Ramesh Bhople ..vs.. The State of Maharashtra through P.S.O., P.S., Akot Gramin,
Tq. Akot, Dist. Akola]

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

Court's or Judge's orders

Mr. V. B. Bhise, Advocate for the applicant
Mr. N. R. Rode, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 28-10-2021

The applicant is arraigned as accused in Crime
383/2020 registered with Akot (Gramin) Police Station,
District-Akola, for offences punishable under Sections
8(a)(3)[8(c)] and 20(b)(ii)(C) of the Narcotic Drugs and
Psychotropic Substances Act, 1985 (NDPS Act).

2. The gist of the prosecution case is that pursuant
to secret information the police raided the hut of Panchal
Raju Solanke and seized cannabis (ganja) weighing
39 kg. Panchal Raju Solanke disclosed that the owner of
the contraband is Kailas Bajirao Pawar, resident of Wari
Hanuman, Tahsil-Telhara, District-Akola. Pursuant to the
disclosure, Kailas Bajirao Pawar was interrogated and he
disclosed the name of the Shatrughna Chauhan, as his

accomplice in sale of cannabis. The police squad then went to Borwaha, Tahsil-Telhara, District-Akola to raid the residential house of the applicant. The prosecution case is that there was a female present in the house who disclosed her name as Anita and who claimed to be the wife of accused Shatrughna Chauhan. The search of the residential house allegedly led to seizure of cannabis weighing 107 kg.

3. The prosecution case is that in the statement recorded under Section 57 of the NDPS Act, Shatrughna disclosed that the contraband was transported in the truck owned by the applicant. It does not appear to be the case of the prosecution that the applicant was driving the truck in as much as it appears *prima facie* that the applicant is suffering from 45% disability to the limbs due to an accident. Other than the confessional statement of Shatrughna which is not admissible in view of the decision of Hon'ble Apex Court in ***Tofan Singh Vs. State of Tamil Nadu [2020(12) Scale 519]***, at present, there is no material in the charge-sheet which if translated into evidence will connect the applicant with

the crime. Certain CDRs are indeed enclosed which according to the learned Additional Public Prosecutor Mr. Rode shows that the applicant was in Andhra Pradesh at the relevant time. Beyond the presence of the applicant in Andhra Pradesh, the CDRs do not assist the agency in linking the applicant with the crime.

4. Tested on the touchstone of the twin test under Section 37 of the NDPS Act, a satisfaction can be recorded that reasonable grounds exist to believe that the applicant may not involve in the commission of offence under the NDPS Act. Further, considering that the applicant has no criminal antecedent, a further satisfaction can be recorded that the applicant is not likely to commit an offence under the NDPS Act, if released on bail.

5. The application is allowed.

6. The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand) with a solvent surety of like amount.

7. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.

8. The applicant shall attend each date of hearing scrupulously.

9. The applicant shall not leave the country without the permission of the trial Court.

JUDGE

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