

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

CRIMINAL APPLICATION (BA) NO.1307 OF 2020

Vijaypal s/o Sarjuram Koi
..vs..
State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Ms. Sheetal Deshpande, Advocate for Applicant.
Shri S.A. Ashirgade, A.P.P. for Non-applicant/State

CORAM : **VINAY JOSHI, J.**
RESERVED FOR ORDER : **21.06.2021**
PRONOUNCEMENT OF ORDER : **22.06.2021**

Hearing was conducted through Video Conferencing.

2. The applicant/accused came to be arrested in connection with the Crime No.347 of 2016 for the offence punishable under Sections 8(C), 20, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Act, 1985 read with Section 34 of the Indian Penal Code. Besides other grounds, the applicant claim bail on the ground of parity and delay in the progress of trial. The State resisted bail by filing affidavit-in-reply. It is contended that the applicant/accuses was found with huge quantity of Ganja. He is resident of Delhi and therefore, it is not desirable to release him on bail.
3. It is the prosecution case that on 05.09.2016, on receipt of information, the Police went to the spot and

found that one car was turned turtle in the streamlet by falling from bridge. The occupants of car i.e. Amit Tomar and the applicant Vijaypal Koi, were in injured condition. During the search, the Police have seized Ganja weighing 189.895 Kgs from the dicky of car. During interrogation, co-accused disclosed the things on which the Police raided on the farm house. From said place, huge quantity of Ganja and some vehicles came to be seized.

4. Learned Counsel for the applicant traced on the point that the co-accused namely Nikhilesh Bakshi from whose possession 350 Kg Ganja was seized, was released on bail by the Hon'ble Supreme Court. According to him, role of the applicant being of lesser degree, he is entitle for bail. Moreover, it is pointed that several other co-accused are released on bail of which orders have been produced. The record indicates that the co-accused Nikhilesh Bakshi who was a taxi driver, was arrested, and Ganja weighing 350 Kg was seized from the place from where he was arrested. Hon'ble Apex Court considered that the trial could not be proceeded in near future, since one of the co-accused is absconding and accordingly, released him on bail vide order dated 06.12.2019. During the course of time, some more co-accused namely Nagula Vijay Sambha Shivdu, Jaswantsingh alias Senti Puransingh, Vishnudas Rajendradas, Ramsajansingh Rambalaksingh, Golu Shau Rajput

Shahu alias Rajendra Prasad, Manishsingh, Amit kumar Hukumchand are released by this Court on different occasions. The allegations against them are of different nature as some are found on the place from where the contraband article was seized, whilst some are farm house owner, driver, etc,. It is argued that the applicant is mere a driver of concerned car who has no knowledge about the contraband article.

5. Pertinent to note that as per the submissions of learned Counsel for the Applicant, there are 36 witnesses to be examined. It is not disputed that yet, charges have not been framed by the Trial Court. The applicant is in jail from 05.09.2016 i.e. for the period near-about 5 years. There are no criminal antecedents against the applicant/accused, therefore, it cannot be said that there are chances of applicant committing similar offence. Taking into account the said fact and as most of the co-accused are released on bail, the applicant can be released on bail by putting certain conditions. In view of the above, following order is passed :

- (a) The applicant/accused Vijaypal s/o Sarjuram Koi is released on bail in connection with the Crime No.347 of 2016 for the offence punishable under Sections 8(C), 20, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Act, 1985 read with Section 34 of the Indian Penal Code, on his

executing Personal bond of Rs.2,00,000/- with one surety in the like amount from the State of Maharashtra.

- (b) The applicant/accused shall not directly/indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE

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