

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

CRIMINAL APPLICATION (ABA) NO. 803/2021

(Yash S/o Satish Punyani Vs. State of Maharashtra)

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

Court's or Judge's orders

Shri A. K. Bhangde, Advocate for applicant.
Shri V. A. Thakare, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 17.12.2021.

Heard

2. Apprehending arrest in Crime No. 416/2020 registered with the Police Station Ganeshpeth, Nagpur in connection with offence under Section 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the applicant prays for pre-arrest bail. Besides usual grounds, it is contended that applicant was neither present at the time of seizure nor he was found in possession of the contraband articles. Merely on the statement of co-accused, the applicant has been involved in the crime. There is no convincing material to show the complicity of the applicant, hence, bail is claimed.

3. The State resisted bail by filing reply affidavit. The contents of the Police Report are narrated in brief. It is stated that at the behest of the applicant, co-accused Prashant Sute went to collect contraband articles namely M.D. (Mephedrone) powder/drugs. The name of applicant emerges in the First Information Report (FIR) itself. Moreover, it is stated that in past on several

occasions, the applicant has collected contraband articles and therefore, his involvement is evident.

4. It is the prosecution case that on 28.11.2020, the Police received information that consignment of drugs was dispatched from Mumbai by Travelers Bus. One Fulsing Patty went to collect consignment of contraband articles. As per secrete information the Police went to the spot and apprehended Fulsing Patty who was collecting parcel. The Raiding Party found that consignment was containing 256 grams of M.D. drugs which was of commercial quantity. During enquiry, it was revealed that the drugs were sent by one Amir Khan resident of Mumbai, who was in constant touch with Fulsing Patty. Amir Khan telephonically asked Fulsing Patty to deliver 140 gram drugs to one Mohammad Malik, and 60 grams to applicant Yash Punyani.

5. It is the prosecution case that the applicant Yash Punyani was to collect the contraband through Prashant Sute at Uppalwadi near the Post Office. Accordingly, the Police went to the place and nabbed Prashant Sute who was about to collect the drugs from Fulsing Patty. During inquiry, Prashant informed to the Raiding Party that he used to collect consignment for applicant Yash Punyani on payment of certain amount. The report discloses that in past also he collected the consignment on behalf of applicant Yash Punyani.

6. Though applicant was not present on the spot, however, his complicity is very much evident from the Police report itself. *Prima facie*, it appears that Prashant

Sute was merely a handler, acting at the behest of applicant Yash Punyani. The Police diary contains CDR to show that applicant Yash Punyani was in contact with co-accused. The seized contraband was of commercial quantity. The Police Paper contains chemical analyzer report which confirms that the contents were M.D. powder.

7. Learned counsel for the applicant has relied on certain decisions to impress that in absence of direct role, pre-arrest bail can be granted. However, the bail application has to be decided on given facts of the each case. In case at hand, *prima faice*, it emerges that on regular course, the applicant was purchasing M.D. powder sent from Mumbai. In view of that, I am unable to satisfy myself that there are no reasonable grounds for believing that the applicant is not guilty. Having regard to the seriousness of crime and its social impact, thorough investigation is necessary to break the chain.

8. In view of above, no case is made out to grant pre-arrest protection. Hence, application stands rejected and disposed of.

JUDGE

Gohane

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by JITENDRA
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