

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

CRIMINAL APPLICATION (BA) NO.1250 OF 2021

(Rakesh Siddharth Janbandhu Vs. The State of Maharashtra thr. PSO PS Hinganghat,
Dist. Wardha)

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

Court's or Judge's orders.

Mr. S. R. Dube, Advocate for Applicant.
Mr. M. K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 22nd DECEMBER, 2021.

Heard.

2. The applicant is seeking bail in Crime 505/2021 registered with the Police Station Hinganghat, District Wardha for offences punishable under Sections 20 (b) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

3. The prosecution case in brief is that *ganja* weighing 4.730 Kg. came to be seized from co-accused Vijay Kothre. The apprehended co-accused disclosed that the narcotic is owned by the applicant.

4. It is common ground that the seized contraband is not of commercial quantity and therefore, the rigors of Section 37 of the NDPS Act would not apply.

5. In so far as the material on record is concerned, the learned APP Mr. Pathan fairly does not rebut the submission of the learned counsel for the applicant Mr. Dube, that the only incriminatory material is the statement of the co-accused.

6. In view of the decision of the Apex Court in ***Tofan Singh v. State of Tamil Nadu 2020(12) SCALE 519***, the statement of the co-accused is not admissible against the applicant.

7. It is true that the applicant is facing several prosecutions and most of them are under the provisions of the Maharashtra Prohibition Act. This has weighed with the learned Sessions Judge who rejected the bail. However, considering the nature of the material against the applicant in the substantive crime, I am not inclined to reject bail only on the ground that he is facing numerous prosecution.

8. The application is allowed.

9. The applicant shall be released on bail on executing personal bond of Rs.16,000/- (Rupees Sixteen Thousand) with a solvent surety of like amount.

10. The applicant shall not indulge in any criminal activity while on bail.

11. The applicant shall attend every date of hearing in the trial court. Even a singular default shall entail cancellation of bail unless the absence is exempted/condoned by the learned trial Judge.

12. The applicant shall surrender the passport, if not already surrendered.

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

14. The applicant shall attend the concerned police station as and when required by the investigating officer.

15. The applicant shall not leave the country without the permission of the jurisdictional court.

JUDGE

NSN