

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 456 OF 2022

Sheela w/o Santosh Rahade	... Applicant
Versus	
The State of Maharashtra	... Respondent

....

Mr. S. J. Salunke, Advocate for applicant
Mr. S. P. Sonpawale, APP for respondent - State

....

CORAM : R. G. AVACHAT, J.

DATED : 13th JULY, 2022

PER COURT :-

This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0405/2021, registered with Pathri Police Station, District Parbhani, for the offences punishable under Sections 8(C), 20, 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

2. Heard.

Perused the First Information Report (FIR). The FIR has been lodged by the Assistant Police Inspector, Pathri Police Station. It is the case of the prosecution that he was on patrolling duty on the

intervening night of 9th and 10th September, 2021. It was about 4.00 to 4.30 a.m., he was in official vehicle. Driver Chavan was with him. The informant noticed one car bearing No.MH-03-BC-5032 stationary by road side. He, therefore, went close of the car. He had found smell. According to him, it was a smell of ganja like substance. In the car, there were two male persons and a lady (applicant herein). While they were being inquired with, one of them fled. He, therefore, brought those two and the vehicle to the police station. A search of the vehicle was made to find it to have contained 226.15 kg ganja. The same came to be seized under the panchanama. The crime was investigated. The charge-sheet has been filed against four persons including the applicant herein. The other one who was brought to the police was said to be the driver of the vehicle.

3. The learned Advocate for the applicant would submit that the applicant is the widow. One of the three had run away. The police papers does not indicate anything more than than the applicant was in the car. There is nothing to connect the seized contraband to have belonged to her. He, therefore, urged for grant of the application.

4. The learned APP would, on the other hand, submit that it was a huge quantity of contraband article. It was raid at night. It is for the applicant to make out her defence of not having been of conscious possession of the contraband. The same can only be done done on appreciation of the evidence. He, therefore, urged for rejection of the application.

5. Considered the submissions advanced. True, it was about 4.00 to 4.30 a.m. in the morning, the applicant and two others were noticed in the car containing ganja. The fact is however that one of them fled. The applicant is a woman. She is a widow. It will take time for commencement and conclusion of the trial. She has been behind the bars for about ten (10) months. The applicant being a woman and the question whether she was in conscious possession of the contraband would only be decided on appreciation of the evidence in the case. It will take time for commencement and conclusion of the trial. The applicant has no criminal antecedents. The Court is therefore inclined to grant her application. Hence, following order:

ORDER

- (i) The Bail Application is allowed.

- (ii) The applicant be released on bail in connection with Crime No.0405/2021, registered with Pathri Police Station, District Parbhani, for the offences punishable under Sections 8(C), 20, 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, on her executing P R. bond in the sum of Rs.40,000/- (Rupees Forty Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS