

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.514 OF 2022

SHIVSHANKAR S/O. VENKAT REDDY DUGGIMPUDI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Swapnil Joshi holding for
J. P. Legal Associates
APP for Respondents : Mr. A. A. Jagatkar
...

CORAM : S. G. MEHARE, J.

DATE : 07-07-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondents.
2. The learned counsel for the applicant submits that the applicant has been arrested only on the information received from the co-accused during the interrogation. The applicant is not the resident of the place which has been told by the co-accused to the police. The police went to different police stations in the State of Telangana, but none of the letters provided to the police, mentions the name of the applicant. The applicant has been arraigned only on suspicion. Except the words of the co-accused, the prosecution

has no evidence at all against the applicant. The prosecution even not collected prima facie evidence against the applicant that so-called mobile number given by the co-accused is belonging to the applicant and they were in contact with the applicant any time before the incident. The applicant has no concern with the alleged incident. He is law abiding person. He was not in conscious possession of the alleged contraband. Therefore, he may be released on bail.

3. The learned A.P.P. has strongly opposed the application and submitted that there is evidence against the present applicant. The statement of co-accused during interrogation is material. Hence, considering the commercial quantity of contraband, the applicant is not entitled to bail.

4. The prosecution has a case that in a trap, three co-accused were arrested with 94.675 kg. Ganja and during the course of interrogation, the co-accused disclosed the name of applicant contending that they have purchased the said Ganja from the applicant. They have disclosed the name of the applicant with address. However, the papers reveal that the applicant is not a resident of the district that has been disclosed by the co-accused. So far as non-disclosure of name of the applicant in letters addressed to the various police stations in the State of Telangana

for the police assistance is concerned, in the said letters, the crime number has been disclosed. However, it is a practice that the police takes care to keep the information secret so the alleged accused may not abscond. However, the police has even no evidence that so-called mobile number which was disclosed by the co-accused, is owned and belonged to the applicant. The prosecution has also no evidence of the contact of the co-accused with the applicant.

5. No doubt, the quantity of Ganja seized in the crime is commercial. The minimum punishment is 10 years rigorous imprisonment, which may be extended to 20 years. The commercial quantity may not be the sole ground to refuse the bail. The prosecution must have prima facie material to link the accused with the alleged crime. If the prosecution has nothing to link the applicant with the alleged crime, the gravity of offence may not be required to be considered. The primary duty of the Investigating agency is to collect the evidence against the accused to link him with the alleged crime.

6. There is a difference in the address of the applicant and the address of the person from whom the co-accused have allegedly purchased the Ganja. Be that as it may, the prosecution has no prima facie evidence to satisfy the Court that anyhow the accused

was linked with the alleged crime.

7. For the reasons stated above, this Court is of the view that this is a fit case to grant bail. No doubt, having regard to the gravity of the offence, certain conditions may be imposed. Hence, the following order –

- i) The application is allowed.
- ii) The applicant Shivshankar s/o. Venkat Reddy Duggimpudi be released on bail on furnishing PB and SB of Rs.1,00,000/- (Rs. One Lakh) with one or two solvent sureties of like amount, in C.R.No. 346 of 2021, registered with MIDC – Latur Police Station, for the offence punishable under Sections 20(B), 8(C), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the condition that he shall attend the material hearing of the trial on each date, subject to certain exceptional circumstances.
- iii) Bail before the learned Additional Sessions Judge, Latur.

(S. G. MEHARE)
JUDGE