

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2785 OF 2021**

Nanu @ Ramnayan Haridwar]
Vishwakarma] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

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Ms. Sandhya A. Mailagir i/b Mr. Anil D. Joshi for the applicant.

Ms. Anamika Malhotra, A.P.P. for the State.

Mr. Surwade, API attached to Chitalsar Police Station is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH JULY, 2022.

P.C.:-

1. The present applicant is charge-sheeted in C.R. No.I-154 of 2020 registered with Chitalsar Police Station, Thane, for offences punishable under Section 8(c) read with Section 20 of the NDPS Act. He came to be arrested on 05/08/2020 and on

completion of investigation, charge-sheeted for the aforesaid offences.

2. Heard learned counsel for the applicant, learned A.P.P. for the State and perused the charge-sheet placed on record.

3. The charge-sheet alleges that one Annavarani residing in Vishakapatnam is cultivating ganja and the wanted accused Nari, who purchased the ganja from him sells it to co-accused Aadi Anna. It is then alleged that the arrested accused Mukesh Mourya purchased the ganja from Aadi Anna and brings it for sale in Mumbai and Thane. It is also alleged that the said ganja is transported through a truck belonging to accused No.1 Akash Rajmane. The present applicant is alleged to be a friend of Mukesh Mourya and he is accused of bringing the ganja in a truck belonging to Akash Rajmane, to Thane. The charge-sheet also accused that Mukesh Mourya had financed for the truck purchased by Akash Rajmane.

4. On secret information being received on 31/07/2020 to the effect that one truck carrying huge quantity of ganja was entering in Thane District, a raiding team proceeded to the spot and found the truck abandoned near a dilapidated building and several gunny bags were recovered from it, which contained the substance, analyzed to be ganja, weighing 691 kgs.

5. As far as the involvement of the present applicant is concerned, it is based on the statement of the co-accused recorded by the police on 03/08/2020. The statement of Akash Rajmane is, however, not recorded under Section 67 of the NDPS Act and, assuming so, in view of the latest position of law, this could not have been considered as admissible in evidence. The statement of Akash Rajmane, which implicates the present applicant, being not recorded under Section 67 of the NDPS Act, the said statement cannot indict the applicant, in the absence of any other material.

6. Learned A.P.P. also relied upon the statement of eye-witness Vijay Yadav, who is a rickshaw puller and who has witnessed that certain persons climbed into a truck and removed the cover and took out certain packets and transferred them into a Swift Dezire car and, proceeded towards Mariaai Nagar. He has stated that when he followed the Swift Dezire car, he found that, the bags were taken out near a room of Anand Kanojia in Mariaai Nagar.

7. However, the said witness is of no assistance to the prosecution case as he does not take its case any further, since he has not seen the applicant nor any test identification parade is conducted to establish that the applicant was part of the gang, which had parked the truck and unloaded the material therein and transported it in other vehicle. This being the only material

compiled against the applicant with no direct evidence against him, he cannot be kept incarcerated indefinitely. He is, therefore, entitled to be released on bail. Pertinent to note that one of the accused Nadipenti Bhaskarrao is also released on bail by this court. Hence, the following order:

ORDER

- (a) The applicant – **Nanu @ Ramnayan Haridwar Vishwakarma** shall be released on bail in C.R. No.I-154 of 2020 registered with Chitalsar Police Station, District Thane on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The applicant shall attend the trial regularly unless exempted.

8. The application is disposed off.

9. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]