

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2644 OF 2021

Ranjana Mahadev @ Namdev Kadam (Wankhede) ... Applicant

Versus

The State of Maharashtra

... Respondent

Mr. Rahul K. Dhaygude, for the Applicant.

Mrs. P. P. Shinde, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 15th December, 2021.

PRONOUNCED ON : 20th January, 2022.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 84 of 2021 registered with Mahatma Gandhi Chowk Police Station, Miraj, District- Sangli for the offences punishable under Sections 8(c), 20(2)(b), 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

2 It is the case of prosecution that the Assistant Police Inspector Pravinkumar Kamble received secret information that Ganja was being brought in a white colour Maruti car bearing registration No.MH13 AX3808. Accordingly a raid was carried out after intercepting the said Maruti car. On enquiry, the occupants of the car were found in possession of 11 bags containing Ganja of 20kg. 700gms. After necessary formalities the contraband came to be seized and First Information Report (FIR) was lodged.

3 Mr.Dhaygude, learned Counsel for the applicant, at the very outset, submits that there is total non compliance of Section 42 of the NDPS Act. Despite having secret information, no such information was reduced into writing nor was informed to the immediate superior officer by the said API Pravinkumar Kamble. There being total non compliance of the mandatory provision, the applicant deserves to be enlarged on bail.

4 Mrs. Shinde, learned APP, on the other hand, opposes the submissions by contending that the applicant along with others were found in possession of commercial quantity of Ganja and

offence being of serious nature, the application is liable to be rejected.

5 Perused the investigation papers.

6 Admittedly, secret information was received by API Pravinkumar Kamble. Neither record shows nor learned APP was able to show that there was due compliance of Section 42 of the NDPS Act. According to Section 42 of the NDPS Act, it is mandatory for empowered officer to comply with the provisions when the information is received by him regarding the commission of offence under the provisions of the NDPS Act. The said provision is mandatory. On the ground of non compliance of Section 42 itself the applicant deserves to be enlarged on bail.

7 There is one more reason. There is statement of Subhash Raigonda Patil, Assistant Police Inspector, who during the course of investigation had confronted the driver of the vehicle, namely, Mahadev Vishvanath Shinde. It appears from the statement of API that when he enquired with the said driver as to why the applicant

and other woman accused were accompanying the vehicle, he replied that in the event of his vehicle being inspected, they would give the excuse of emergent medical conditions and because of them nobody would check the vehicle. This statement filed on record by none other than the Investigating Officer itself goes to show that the present applicant and another woman accused were taken by other two male accused including the driver to shield them from their illegal activity of transporting the contraband. The statement also goes to show that the present applicant was not having any knowledge of any contraband being carried in the vehicle in question.

8 Thus, for the aforesaid reasons, in my view, the applicant has made out a case for bail. Hence, the following order.

ORDER

(i) **Applicant- Ranjana Mahadev @ Namdev Kadam (Wankhede)** shall be released on bail in C.R. No. 84 of 2021 registered with Mahatma Gandhi Chowk Police Station, Miraj, District- Sangli on her executing P .R. bond in the sum of Rs. 50,000/- with one or more sureties in like amount.

(ii) The applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(iii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iv) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(v) Bail before the trial Court.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)

REKHA
PRAKASH
PATIL

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REKHA PRAKASH
PATIL
Date: 2022.01.20
14:45:08 +0530

Rekha Patil