

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

Criminal Application (BA) No.400/2022

Raju @ Rakesh Gupta V State of Maharashtra thr PSO PS Butibori, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.V. Sirpurkar, Advocate for applicant.
Shri Ashish Kadukar, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 29-06-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0410/2021 dated 12-09-2021 registered with Police Station Bori, District Nagpur (Rural) for the offences punishable under Sections 20, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The learned Counsel for the applicant submits that the applicant is in jail since last one year and after the filing of chargesheet his further custody is not required.

3. It is submitted that initially the name of the applicant was not featured in the First Information Report (FIR), however, he was arraigned on the statement of one Police Sub Inspector- Ashish Morkhade who stated in the statement that during

investigation it was revealed that the applicant is involved in the alleged offence.

4. The learned Advocate for the applicant states that there is nothing except the said statement to involve the applicant in the alleged offence.

5. The learned Advocate for the applicant lastly argues that on the date of incident he was in jail at Katani (Madhya Pradesh) in Crime No.571/2021 under Section 8/20 of the NDPS Act for possessing non commercial quantity. He, accordingly, submits that the applicant has been falsely implicated in the alleged offence.

6. The learned APP strongly opposed the application and submits that huge quantity of contraband was seized in this case and it appears that there is a racket and accordingly as there is sufficient material to show the involvement of the applicant, he prays for rejection of the bail application.

7. I have perused the chargesheet, First Information report and the reply of the learned APP.

8. The applicant is in jail from last one year and after completion of investigation his further custody is not required.

9. In this case though the quantity of contraband is huge i.e. 1104 kg Ganja, however, the name of the applicant was not

there in the FIR and subsequently on a statement of PSI- Ashish Morkhade it was added. Except this statement, prima facie, there is no other material to connect the applicant with the alleged offence.

10. It further appears that he was in jail on the date of alleged incident in Crime No.571/2021 registered at Madhya Pradesh. Even there is a mention of this fact in the statement of witness Ashish Morkhade.

11. Thus, in absence of any prima facie incriminating material available on record against the applicant, I am of the opinion that as his further custody is not required he is entitled for grant of bail.

12. Moreover, there is nothing to show that if the applicant is released on bail, there is any possibility that the applicant will pressurize the prosecution witnesses or tamper with the prosecution evidence and/or he will not be available for the trial.

13. In the circumstances and in view of the fact that there are no criminal antecedents to the discredit of the applicant, I pass the following order:-

ORDER

- i) Application is allowed.

ii) The applicant in Crime No.0410/2021 dated 12-09-2021 registered with Police Station Bori, District Nagpur (Rural) for the offences punishable under Sections 20, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

iii) The applicant shall attend the concerned Police Station on first day and 16th day of every month between 1.00 am to 3.00 noon, till the culmination of trial.

iv) Liberty is granted to the State to move an application for cancellation of bail, in case, breach of any conditions or if the applicant repeats the offence.

(Anil S. Kilor, J.)