

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (BA) No. 725 of 2022

Santosh S/o Jivandas Bairagi

Versus

State of Maharashtra, through Police Station Officer, Police Station
Parseoni, Tah. Parseoni, Dist. Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs. Swati V.Kolhe, Advocate for the applicant.

Ms Shamshi Haider, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 19th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 65 of 2021 registered with Police Station Parshioni, Dist. Nagpur for the offence punishable under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act').

2. Learned counsel for the applicant submits that on a disclosure of name of the applicant by the co-accused, the offence came to be registered against the applicant. It is further submitted that though it is a commercial quantity, there is nothing to show that it

belongs to the applicant, except the statement of co-accused which is not admissible.

3. It is submitted that there are contradictions in the First Information Report and the statement of the informant and considering the discrepancies, it can be said that there is a reasonable ground to believe that the applicant is not guilty of the alleged offence.

4. Learned counsel for the applicant further submits that story of the prosecution is not probable that the applicant has purchased the said contraband from Orissa and they were traveling on motor-cycle from Orissa to Maharashtra. Accordingly, she submits that applicant may be released on bail.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that it was a commercial quantity and on a fateful day, the applicant and his friend met with an accident and immediately they were hospitalized. However, the three bags were recovered from the spot of incident containing Ganja 23.318 kgs amounting to Rs.2,33,180/-.

6. She submits that considering the evidence collected by the Investigating Officer during the investigation, it cannot be said that the applicant is not

guilty of the alleged offence. Accordingly, she prays for rejection of the present application.

7. I have perused the chargesheet and the evidence collected by the Investigating Officer during the investigation.

8. From the chargesheet, it can be seen that while going on motor-cycle, it was slipped and they fell down on the road alongwith two bags and one plastic bag.

9. The applicant and the co-accused were immediately hospitalized and when the police reached the spot on the information received from the informant Shri Kathane, it was found that the bags are containing substance like Ganja. Therefore, in presence of two panchas, it was seized and the offence was registered. The quantity of contraband is 23.318 kg which is a commercial quantity. Thus, looking at the character of evidence collected by the Investigating Officer during the investigation, it can be said that there is sufficient incriminating material to *prima facie* indicate the involvement of the applicant.

10. Thus, there is no reasonable ground to believe that the applicant is not involved in the alleged

offence. In view of the above observations, I pass the following order:

- i. Criminal application is rejected.

[ANIL S. KILOR, J.]

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