

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

Criminal Application (BA) No. 762 of 2022

Anuj S/o Satish Navghire

Versus

The State of Maharashtra, through its Police Station Officer, Police
Station, Walgaon, Taluka and District Amravati.

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

Court's or Judge's Order

Shri K.R.Trivedi Advocate for the applicant.

Shri T.A. Mirza, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 18th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 0386 of 2020 dated 7th June, 2020 registered with Police Station Walgaon, Amravati City for the offence punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

2. Learned counsel for the applicant submits that that no contraband material was seized from the applicant and he is not connected with the alleged offence as he was travelling in the truck as a passenger. It is submitted that after completion of the investigation,

the chargesheet has been filed and no further custody of the applicant is required.

3. Learned counsel for the applicant submits that co-accused has already been granted bail by this Court vide order dated 10th June, 2022 in Criminal Application No.162 of 2022 and as such the applicant is entitled for grant of bail on the ground of parity. He further points out that this Court has granted bail to the driver who was driving the truck and as he was traveling as a passenger he has better case. Thus, he prays for grant of bail.

4. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that it was a commercial quantity and therefore this Court may not grant bail to the applicant.

5. I have perused the chargeheet and the First Information Report.

6. This Court while granting bail to the driver has observed that the owner of the truck and two passengers were sitting in the truck.

7. The date on which the alleged incident happened i.e. 7th June, 2020, there was a lockdown and there was no other means of transport except truck. Therefore, *prima facie* it appears that the applicant was travelling in the said truck as a passenger.

8. There is no material available in the chargesheet to show that the applicant was not travelling as a passenger or he has any direct connection with the alleged offence.

9. As such, the applicant is entitled for grant of bail on the ground of parity as the co-accused i.e Sheikh Shoheb Sheikh Hasan @ Shoheb Khan S/o Asad Khan was granted bail vide order dated 10th June, 2022 in the same offence.

10. Thus, in absence of any *prima facie* incriminating material available on record to show contrary than the case of the applicant that he was travelling in the truck as a passenger, I am of the *prima facie* opinion that there is a reasonable ground to believe that the applicant is not involved in the alleged offence and there is no possibility that he will not be available for trial.

11. In the circumstances as this Court has granted bail to the driver, and as the applicant *prima facie* was travelling as a passenger in the said truck, I am of the opinion that applicant is entitled for grant of bail on parity. Accordingly, I pass the following order.

ORDER

- i. It is directed that the applicant shall be released on bail in Crime No. 0386 of 2020 dated 7th June,

2020 registered with Police Station Walgaon, Amravati City for the offence punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the 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, as also not tamper with the evidence;

iii. The applicant shall not leave the jurisdiction of the concerned police station without permission of the Court.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
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