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DATED : 21 MARCH 2023

P.C. :-

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 6 of 2019 registered by the Department of Customs (Narcotics Cell), Pune for the offences punishable under Sections 8(c), 20(b)(ii)(c), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. I have heard the learned Counsel for the applicant, the learned Spl.PP for the respondent/Customs and the learned APP for the State.

4. According to the prosecution, on 7 June 2019, on the basis of secret information, the applicant was apprehended and was found in possession of 106 kg. of Ganja.

5. The learned Counsel for the applicant submits that the applicant has nothing to do with the alleged crime. It is submitted that applicant is in jail for about four years and the trial is still at the stage of charge. It is submitted that there are no other criminal antecedents. It is thus submitted that the applicant may be released on bail.

6. On the other hand, the learned standing Counsel for Respondent No.1 submits that the applicant is involved in a serious crime. It is submitted that 106 kg. of ganja which is a commercial quantity was found in possession of the present applicant. It is submitted that trial could not proceed due to Covid-19 pandemic.

7. The search and seizure report inter-alia reads thus :

“The search of the said vehicles carried out in the presence of two Panchas, and independent Gazetted Officer, resulted in recovery of 4 white plastic bags containing 49 cello taped packets containing green dried fruiting and flowering tops and dried leaves, purported to be ganja totally weighing 106kgs.”

8. Section 2(iii)(b) of the NDPS Act defines Ganja as the flowering or fruiting tops of the cannabis plant, excluding seeds and leaves when not accompanied by tops. However, prima facie, it appears that the

weight of leaves was not excluded from the weight of Ganja. The applicant is in jail for about four years and the trial is still at the stage of framing of charge. There are no other criminal antecedents. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant - Rohit Vishnu Kale be released on bail in Crime No. 6 of 2019 registered by the Department of Customs (Narcotics Cell), Pune for the offences punishable under Sections 8(c), 20(b)(ii)(c), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

Digitally signed
by KANCHAN
PRASHANT
DHURI
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2023.05.17
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