



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1257/2023

SHANKAR BHASKAR GHODESHWAR ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Niteen Pradhan i/b. Adv. Shubhada Khot for the
applicant.

Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 12, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of the offence
punishable under Sections 20(b), 20(c), 22 of the Narcotic
Drugs and Psychotropic Substances Act, 1985 (hereafter
'the NDPS Act' for short) registered on 14/10/2021 vide C.R.
No.784/2021 with Malegaon Taluka Police Station, Nashik
Rural.

3. The applicant was arrested on 14/10/2021 by the
raiding party of the respondent on the secret information

that one car from Nashik to Malegaon was carrying contraband. On search of dickey of the car, one bag containing 14 parcels was found, having 28.765 kg. 'ganja' which is a commercial quantity. The samples of 100 gms 'ganja' from each of the packet was taken by preparing panchanama and was sent for chemical analysis.

4. Learned APP while opposing the application submitted that the applicant was found in possession of huge quantity of 'ganja'. Further, learned APP relied upon the paragraph 19 of the affidavit to submit that the complete procedural requirements of the NDPS Act has been followed. It is further submitted that there are as many as seven criminal antecedents reported against the applicant and therefore, the applicant should not be released on bail.

5. I have perused the panchanama and the report of the Forensic Science Laboratory (FSL) which is at page 220. The descriptions of the articles containing in parcels mentions about 14 exhibits. The exhibits contained flowering/fruited tops with greenish coloured leaves, seeds and stalks, put in a stapled polythene bag again put in packet labeled - Exhibit-A. In my opinion, *prima facie*, the contraband seized

may not be in conformity with the definition of the 'ganja' as defined under Section 2(iii)(b) of the NDPS Act. Learned counsel for the applicant relied upon the observations of this Court in **Ramesh Bahan Badhe vs. The State of Maharashtra**¹ while enlarging the applicant therein on bail which *prima facie* is in support of the applicant's contentions.

6. The present applicant was arrested on 14/10/2021 and now is in custody for more than two years and three months with no possibility of the trial concluding any time soon as, even the charge has not been framed. So far as the criminal antecedents are concerned, they are bodily offences and therefore, that cannot by itself be a factor to deprive the applicant the facility of bail. It is also pointed out that in six out of nine cases the applicant has been acquitted. In my opinion, having regard to what is observed hereinbefore, I am of the opinion that the rigours of Section 37 of the NDPS Act can therefore be overcome in the present case. Moreover, I propose to impose stringent conditions while enlarging the applicant on bail. The investigation is complete. The charge-sheet has been filed. The applicant

¹ CrI. BA No.1405/2022 dated 4/1/2023.

does not appear to be a flight risk. All observations are *prima facie* for the purpose of this application. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Shankar Bhaskar Ghodeshwar in connection with C.R. No.784/2021 registered with Malegaon Taluka Police Station, Nashik Rural, shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs.50,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Malegaon Taluka police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.
- (e) 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 the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) The applicant shall not repeat such type of offence and if it is found that the applicant has repeated such offence, the applicant may expose himself for cancellation of bail.

7. The application is disposed of.

(M. S. KARNIK, J.)