

D.A.Ethape

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

CRIMINAL BAIL APPLICATION NO. 1773 OF 2022

Subhash Ramchandraiah Gurugula

...Applicant
(Original accused No.2)

Versus

State Of Maharashtra

...Respondent

Mr. Harideep Singh Advocate for Applicant.

Ms. Anamika Malhotra, APP for Respondent/State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 4th SEPTEMBER, 2023

P.C.:

1. By this application, the Applicant is seeking bail in Crime No.54 of 2021 registered with Rabodi Police Station, Thane for offences punishable under Sections 8(c), 20(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act" for short).
2. It is prosecution case that, the Police had received secret information that on 9th March 2021 about 03:00 pm., one person was carrying 10 to 12 K.g. contraband (ganja) for sale, who would be in attire of gray colour half T-shirt and black jeans. Trap was laid by raiding team. At about 02:20 p.m., Police team arrived at described spot, at about 03:15 pm, one person wearing grey colour half T-shirt and black jeans was spotted, who was holding chocolate colour wire bag in his

hand and one person (present applicant) accompanying him, who was wearing white colour pant and blue colour checks shirt, were seen in suspicious manner. The informant identified the said persons and informed to PSI Sandeep Chauhan. Both the accused were detained by police team. Before took out their search, all legal rights available to them under NDPS Act were made aware to both of them.

2.1 It is alleged that, accused No.1 Anil Narayan Tappanil was carrying chocolate colour wire bag, the same was searched. It contained contraband substance purported to be ganja. The same was tested under drug detection kit for prima facie verification and on verifying the same to be alleged ganja, it was seized in the presence of panchas and weighed to be 11 kg 950 grams. It is alleged that during the course of investigation, accused No.1 has revealed that, he had procured the said contraband substance i.e. ganja from one lady namely Jaramma Abraham Jane residing at Telengana. There was no recovery of contraband from the possession of applicant.

3. It is the contention of learned Counsel for the Applicant that, *prima facie* no offence is made out against the applicant as alleged by prosecution. The alleged quantity of the contraband is 11 kg 950 gram which does not fall under the ambit of commercial quantity. Nothing was found in the possession of the applicant nor there is any allegations of conspiracy against the applicant is made. Moreover, the accused No.1

has stated that, he had procured the said contraband from one lady at Telengana. The applicant is behind bar more than two years. Hence, requested to allow the application.

4. It is contention of learned APP that, the applicant was with accused No.1, who was in possession of contraband weighing more than 11 kg, as the applicant had accompanied accused No.1. It shows that, there was conspiracy between them. Mere, no recovery of contraband from possession of applicant cannot be a ground for granting bail. Hence, requested to reject the application.

5. I have heard both the learned Counsel.

6. Admittedly, there is no recovery of contraband from the possession of applicant. Police had received secret information that one person would carrying contraband and in the secret information, police had also received information about his clothes which, that person would wearing accordingly. Accused No.1 was arrested by the police and the description received in secret information matches with the accused No.1. The applicant was accompanying accused No.1. There is no recovery from his possession. There are no allegations of conspiracy against the applicant. The applicant is behind bar more than two years. Considering above fact, his further detention is not required.

7. In view of above, I pass the following order:-

ORDER

- (i) The applicant be released on bail in Crime No.54 of 2021 registered with Rabodi Police Station, Thane on furnishing PR bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.
- (iii) The applicant shall not tamper with the evidence and/or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- (iv) The application is allowed in the aforesaid terms.

[SHIVKUMAR DIGE, J.]