



Diksha Rane

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

BAIL APPLICATION NO.2454/2023

ASHOK KUMAR BHANVARLAL PANDIT ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Ramchandran Mattiyil a/w. Adv. Nikhil Pareek for the applicant.

Ms. Veera Shinde, APP for the State.

API Somnath Sahebrao Waghmode, Manmad GRP Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 27, 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 8(c), 20(c), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short) registered on 8/9/2022 vide C.R. No.547/2022 with Railway Police Station, Manmad.

3. The date of the incident is 8/9/2022 when it was noticed by the first informant who was working as an Assistant Police Inspector, Railway Protection Force at

Manmad, the activities of two passengers were suspicious. These two persons were carrying two sacks on their person. On inquiries and after following the proper procedure, the present applicant who is the accused no.2 was found carrying contraband 'ganja' of 9.530 kgs. The co-accused no.1 was found carrying contraband 'ganja' of 11.576 kgs.

4. Learned APP while opposing the bail application submitted that the quantity together is 21.106 kgs. which is the commercial quantity.

5. *Prima facie*, there is nothing on record to indicate that the accused except for traveling together, were dealing in the said contraband together or jointly. A reading of the seizure panchanama dated 8/9/2022 which is at page 136 would reveal that the entire contraband including the leaves, flowers, seeds were weighed together, the weight of which is 21.106 kgs. Such weight of the seeds, flowers, leaves does not conform with the definition of the 'ganja' as defined under Section 2(iii)(b) of the NDPS Act, even if it is assumed that the quantity is to be taken as commercial quantity. In my opinion, having regard to the materials on record, the quantity of the contraband found with the

applicant alone will have to be taken into consideration which is 9.530 kgs., a non-commercial quantity. In the absence of there being any material to indicate that the accused were acting together and in connivance with each other, the quantity recovered cannot be regarded as commercial quantity. The rigours of Section 37 of the NDPS Act will not be applicable. These are *prima facie* observations limited to considering the application for bail.

6. The applicant was arrested on 8/9/2022 and is in custody for more than 13 months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Ashok Kumar Bhanvarlal Pandit in connection with C.R. No.547/2022 registered with Railway Police Station, Manmad, shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more

solvent sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Railway police station, Manmad, once in two months i.e. on first Monday of every alternate month between 11.00 a.m. and 1.00 p.m. commencing from December, 2023, till further orders of the trial Court.

(d) 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.

(e) 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.

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

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

7. The application is disposed of.

(M. S. KARNIK, J.)