

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

BAIL APPLICATION NO. 3916 OF 2021

Bajrang Sadashiv @ Nana Patil ..Applicant
VS.
The State of Maharashtra ..Respondent

**WITH
BAIL APPLICATION NO. 4282 OF 2021**

Kumar Pandurang Jadhav ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Nitin Sejpai a/w Ms. Pooja N. Sejpai for the Applicant in
BA no. 3916 of 2021.

Mr. Sandeep S. Salunkhe for the Applicant in BA no. 4282 of
2021.

Ms. P. N. Dabholkar, APP for the State.

Kalyan Dhavane, API, Sangola Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 3, 2023

P.C. :

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

BAIL APPLICATION NO. 3916 OF 2021

2. This is an application for bail by the applicant- Bajrang
Sadashiv @ Nana Patil in connection with C.R. No.I-716 of
2021 dated 07/06/2021, registered with Sangola Police

Station, District Solapur, under sections 420 and 34 of the Indian Penal Code, 1860 and 20(b), 25, 29 and 31 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The applicant was arrested on 16/07/2021. It is the case of the prosecution that on 06/06/2021, a vehicle bearing registration no. MH-12 JF-1444 was intercepted and about 318.095 Kgs of Ganja was found in the said vehicle. During the course of the investigation, it was found that even the number plate of the said vehicle was false. The allegation in the charge-sheet indicates that the present applicant was in contact with the co-accused - Somnath Suresh Kamble. The owner of the vehicle i.e. co-accused Chandrakant Suresh Kamble has been released on bail.

4. Another co-accused namely Vinayak Vishnu Palase from whom there is no recovery had filed Criminal Anticipatory Bail Application No. 108 of 2022 and has been granted pre-arrest bail by this Court. While granting pre-arrest bail to co-accused -Vinayak Vishnu Palase, this Court in its order dated 04/04/2022 has observed thus:

“3. The record discloses that by an order dated 18 January 2022, interim protection was granted to the Applicant on condition of attendance. It is not disputed that the Applicant has reported to the

Investigating officer and has co-operated with the investigating agency.

3. According to the prosecution, the Applicant had paid an amount of Rs.6,25,000/- to the co-accused for purchase of the contraband Ganja. Thus, there are no allegations of any recovery of the contraband from the custody of the present Applicant. Learned APP pointed out certain CDR showing that the Applicant was in contact with the co-accused prior to and after the incident.

4. The record further discloses that one of the co-accused Shankar Shivaji Dhale has been granted anticipatory bail by this Court by order dated 12 October 2021, in Anticipatory Bail Application No.1820 of 2021.

5. Considering the overall circumstances and the fact that contraband has not been recovered from the Applicant. The Criminal Application is disposed of in terms of order dated 18 January 2022 which is hereby made absolute."

5. The only allegation is that the applicant was in contact with the other co-accused. The role of the applicant is similar to that of Vinayak Vishnu Palase. There are no criminal antecedents reported against the applicant. The possibility of the trial commencing any time soon in the near future is remote. In this view of the matter, the applicant can be released on bail as he is in custody for more than 1 year and 6 months. Hence, the following order.

ORDER

(a) Applicant- Bajrang Sadashiv @ Nana Patil, in connection with C.R. No.I-716 of 2021, registered

with Sangola Police Station, District Solapur, shall be released on bail, on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount;

(b) 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;

(c) The applicant shall report to the concerned police station once a month i.e. on first Monday between 11.00 a.m. and 1.00 p.m;

(d) 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.

(e) The application is disposed of.

BAIL APPLICATION NO. 4282 OF 2021

6. This is an application for bail by the applicant- Kumar Pandurang Jadhav in connection with C.R. No.I-716 of 2021 dated 07/06/2021, registered with Sangola Police Station, District Solapur, under sections 420 and 34 of the Indian Penal Code, 1860, sections 20(b), 25, 29 and 31 of the

Narcotic Drugs and Psychotropic Substances Act, 1985 and sections 146, 196 of the Motor Vehicles Act, 1988.

7. The applicant was arrested on 07/06/2021. The applicant was driving the said vehicle bearing registration no. MH-12 JF-1444 in which 318.095 Kgs of Ganja was found. It is the case that the applicant was employed by Chandrakant Kamble who has been granted bail by this Court vide order dated 22/11/2022. Even the co-accused - Vinayak Vishnu Palase has been granted pre-arrest bail. While granting bail to co-accused- Shankar Shivaji Dhale by this Court vide order dated 20/08/2021 in Anticipatory Bail Application No. 1820 of 2021, has observed in paragraph nos. 3, 6, 7 and 8 as under:

“3. The said C.R. came to be registered in the background of the complainant PSI Nale being communicated with confidential information on 06/06/2021 that at about 10 p.m., one Kumar Jadhav is going to transport gunny bags containing Ganja in one Mahendra Pick-Up to Pandharpur. With the help of the panchas, the raid was arranged and the party proceeded towards Sangola. The Mahendra Pick-Up Truck was intercepted and the driver disclosed his name to be Kumar Jadhav (Accused No.1). He provided an information that the Pick-Up was owned by one Suresh Kamble (Accused No.2). When the search of the Pick-up was carried out, behind the empty crates, 11 gunny bags with the caption ‘CP Broiler Finisher’ were found, which contained Ganja. When weighed on the weighing scale, weight of the gunny bags was found to be 318.095 kg. and the

Ganja was worth Rs.63,61,900/-. The contraband has been described as fresh green in colour alongwith seeds. The samples were drawn from the gunny bags and they came to be sealed. The muddemal also refer to wet green leaves and seeds.

6. On examination of the remand papers, it can be seen that accused No.1 is giving information on every remand and in remand of 14/06/2021, he take name of one Bakshiram and give his mobile number, but is unaware of his full name and address. When the mobile numbers are tracked and their CDR are collated, it reflect that from February 2021 and June 2021, accused No.1 had gone to Andhra Pradesh for purchase of Ganja on seven occasions. His custody was sought to be extended on the ground that investigation is required to be carried out as to who are the purchasers of the Ganja and how it came to be disposed of. In the remand of 16/06/2021, accused No.1 take name of one Bhaiya with his mobile number, without full name and address. The remand papers record that accused No.1 is misleading the investigating team and speak of Bhaiya, who is from Vishakhapattnam and that he had purchased the contraband from him. The remand report further record that he is not co-operating with the investigation and is giving misleading information. In the last remand dated 18/06/2021, he implicate the present applicant. When the learned APP is asked about the connection of the applicant to the seizure of Ganja which resulted into registration of C.R., he states that the CDR details manifest that in the month of May, the applicant had made two calls to Bakshiram, who is the dealer in narcotic drugs and this is a grave circumstance against him.

7. The remand papers itself reflect that the present contraband, which has been seized, had been purchased by accused No.1 from Bhaiya, who is from Vishakhapattanam. However, mere two phone calls made in the month of January whereas the seizure of contraband from accused No.1 is in June 21 and this circumstance do not point out his culpability in absence of any other material.

8. The quantity involved in the present C.R is alleged to be commercial quantity, which assertion

however raises a doubt, since the seizure panchanama does not record the presence of any flowering or fruiting tops in the eleven gunny bags and it only refer to green colour leaves and seeds, which necessarily will have to be excluded from the definition of 'Ganja', if not accompanied with flowering and fruiting tops."

8. Learned APP invited my attention to the First Information Report dated 07/06/2021, to submit that the gunny bags contained seeds and leaves. According to her, the substance falls within the definition of "Ganja". According to her, the materials on record indicate that the contraband was accompanied with flowering and fruiting tops and hence the offence is attracted.

9. I have gone through the seizure punchnama. It does not record flowering or fruiting tops in the 11 gunny bags and it only records green colour leaves and seeds. Even this Court in its order dated 20/08/2021 while granting pre-arrest bail to Shankar Shivaji Dhale has so observed. There are no criminal antecedents reported against the applicant of a similar nature. The applicant is a driver of the vehicle of which the owner is released on bail. In this view of the matter and also considering that the applicant is in custody for more than 1 year and 6 months with the possibility of the trial concluding in the near future is remote, the

applicant can be released on bail. Hence, the following order.

ORDER

(a) Applicant- Kumar Pandurang Jadhav in connection with C.R. No.I-716 of 2021, registered with Sangola Police Station, District Solapur, shall be released on bail, on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount;

(b) 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;

(c) The applicant shall report to the concerned police station once a month i.e. on first Monday between 11.00 a.m. and 1.00 p.m;

(d) 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.

(e) The application is disposed of.

(M. S. KARNIK, J.)