



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3202 OF 2023**

Jyoti Anand Gajdhate	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Ranjeet M. Pawar, for Applicant.
Smt. Ashwini Takalkar, APP for State.
Mr. Milind Ramesh Mithapalli PSI Walchandnagar Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 14 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.433 of 2022 registered with Walchandnagar Police Station for an offence punishable under Section 20(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. On 19 September 2020, pursuant to an intimation, Walchandnagar Police conducted a raid at 205, Patil Vasti, Walchandnagar. Smt. Bhagabai, co-accused and the mother in law of the applicant, was found in possession of 25 kg ganja. Bhagabai disclosed that the said contraband article was brought by her son, Anand, husband of the applicant, his friend Shubham and latter's two friends.
4. Post completion of investigation, chargesheet came to be lodged. The applicant was shown as the person who was not sent for trial.

5. Apprehending arrest, the applicant approached the Court of Session. The learned Special Judge was persuaded to reject the application for pre-arrest bail.
6. Learned Counsel for the Applicant submitted that there is no material to connect the applicant with the alleged offence. The applicant is roped in on the basis of the statement of Rohit Jagtap, who stated that he had seen the applicant with co-accused Sagar Jagtap, Shubham Zende and Bhagabai storing some articles on the night intervening 17 September 2020 and 18 September 2020. When the police conducted raid and seized the contraband articles, Rohit realized that the said article, then being stored by the applicant and the co-accused, was ganja.
7. Learned APP fairly submitted that apart from the aforesaid statement, there is no other material qua the applicant.
8. It is true the offences under the NDPS have deleterious effect on the society. Invariably, a person who is found in possession of the contraband article only knows the immediate source of the said contraband article. However, to deprive personal liberty, there must be, prima facie, credible evidence/material to establish the nexus between the accused and the offences.
9. In the case at hand, evidently the person who was found in possession of the contraband articles has not named the applicant as an accomplice or the person who has given the said contraband articles to her. The statement of Rohit, on the strength of which the applicant is sought to be roped in, does not prima facie bear the

weight of the accusation of the applicant being privy to the alleged offences. Thus, I find substance in the submission on behalf of the applicant that the applicant is sought to be roped in for being the daughter in law of Bhagabai, who was found in possession of the contraband article.

10. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

11. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Jyoti Anand Gajdhate in connection with C.R.No.433 of 2020 registered with Walchandnagar Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The Applicant shall co-operate with the investigation and report to Walchandnagar Police Station on 26th, 27th and 28th December 2023 in between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The applicant shall not indulge in identical activity for which she has been arraigned in this case.

(vi) The application stands disposed.

(vii) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)