

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (BA) NO. 81/2023

Ramdas Subhash Pawar

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS, Deolgaonraja Dist. Buldana

.. Respondent

.....
Mr. R.M.Daga, Advocate for the applicant

Mr. M.J. Khan, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 30th March, 2023.

PC:

Heard learned counsel for both the sides, at length.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been arrested on 05.08.2022 in Crime No.111/2022 registered at Police Station Deoulgaonraja, Dist. Buldana for the offences punishable under Sections 8(C), 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Briefly stated, the case of the prosecution is that four persons were travelling in a Tata Tigore Car bearing Registration No. MH 28-AZ-0632 with conscious possession of 42.360 kg. of *ganja*. One person was accosting the car on a motorcycle. On 22.08.2022 there was *nakabandi* on Deolgaonraja-Jalna Road and around ten police personnel were present. The car in which the applicant and co-accused were travelling was stopped. The applicant and another accused-Bharat

Suradkar managed to made their escape good. The co-accused, however, were apprehended by the Police. The Car was searched and as stated above, 42.360 kg. *ganja* was found in the rear seat of the car. Accordingly the report was lodged with Deoulgaonraja Police Station.

4. The learned APP though has opposed the application tooth an nail, Mr Daga, the learned counsel for the applicant has rightly pointed out that the car was stopped at about 00.45 hours on 22.8.20022 when it was a quite dark and that it is nobody's case that informant or police personnel have seen the face of the applicant. The applicant is said to have took to his heels. His role has been disclosed during interrogation of the co-accused. Thus, there is no independent witness to implicate the applicant in the crime. The Investigating Officer has not subjected applicant to test identification parade and, therefore, the identity itself is very much in doubt.

5. The charge-sheet has been filed. The charge has not yet been framed. It will take some time to commence and conclude the trial. When enquired, learned counsel for the applicant submits that there are no criminal antecedents against the applicant. The applicant is residing at the given address since long.

6. In the circumstances and considering the nature of evidence against the applicant, as also the presumption that the person accused of commission of a crime is considered innocent until proven guilty, in my considered view, no fruitful purpose will be served by keeping the applicant behind bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

7. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it.

8. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Ramdas Subhash Pawar, be released on bail, in Crime No.111/2022 registered at Police Station Deoulgaonraja, Dist. Buldana for the offences punishable under Sections 8 (C), 20 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on he furnishing P.R. bond in the sum of Rs. 50,000/- (Rupees fifty thousand) with one or two sureties in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number (s) to the Investigating officer and the Court concerned, and shall not change the mobile number(s) and the residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.
- (vi) The applicant shall maintain law and order.

(vii) The applicant shall surrender his passport before the Investigating Officer within a period of one week from today. If he does not possess any passport, he shall file an affidavit to that effect.

(viii) In case of breach of any condition, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

[ANIL L. PANSARE, J.]

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