



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1033 OF 2024

ASHOK JAGDISH CHAVHAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Chaitanya C. Deshpande
APP for Respondent : Mr. S. R. Wakale
...

CORAM : S. G. MEHARE, J.
DATE : 10-07-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant seeks bail in C.R.No.123 of 2024 registered with Shirpur Police Station, District Dhule, for the offences punishable under Sections 15(c), 17(c) and 18(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "N.D.P.S. Act").
3. The applicant has a case that he was a cleaner on the vehicle in which the opium poppy straw were transported. He did not know about opium loaded in the truck. He has no role to play in the crime.
4. Learned counsel for the applicant submits that the truck in which the alleged substance was transported, has been released

on *supurtnama*. The so-called receiver of the said substance has also been granted bail. He submits that the role attributed to the applicant is very limited. A question of conscious possession of the contraband is to be determined in the trial. The quantity recovered is commercial. The prosecution has no evidence or material to show that he may be involved in the crime. Therefore, Section 37 of the N.D.P.S. Act would not apply. In this circumstance, he may be granted bail.

6. Learned A.P.P. has strongly opposed the application. He submits that opium poppy straw recovered was of commercial quantity. Therefore, the applicant does not deserve bail. There is great possibility of repeating the crime at the hands of the applicant. He has no good stand / defence. Hence, he may not be granted bail.

7. Admittedly, the quantity recovered from the truck was commercial. Therefore, Section 37 of the N.D.P.S. Act was to be considered while granting bail in commercial quantity of the contraband substance. The prosecution has to satisfy the Court that there are chances of repeating the crime at the hands of the accused. The applicant is first time offender of this crime. He was a cleaner. Except bare words, the prosecution has no other material to believe that the applicant would repeat or involve in the identical crime. Considering his role, he deserves bail. Hence,

the order:-

ORDER

- i) The application is allowed.
- ii) Applicant Ashok Jagdish Chavhan be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall attend the police station as and when called by the Investigating Officer on written notice, till the filing of the chargesheet.
 - (b) He shall furnish his residential proof and cell phone number with undertaking that would not change it untill the conclusion of the trial.
 - (c) After filing of the chargesheet, he shall attend the trial on each and every date.

**(S. G. MEHARE)
JUDGE**

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