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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1113 OF 2023

Suraj @ Lakhan Gaurishankar Sherkar

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Abhijit S. More, Advocate for the applicant
Mr. S. D. Ghayal, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 31st JANUARY, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 345 of 2021 registered with Loni Police Station, Taluka- Rahata, District - Ahmednagar for offence punishable under section 20 (b), 22, 23 (c) of Narcotic Drugs and Psychotropic Substance Act.
2. FIR is lodged by Police Naik Deepak Rokade, attached to Loni Police Station contending that on 26th August, 2021, he was on patrolling duty with Assistant Police Inspector, Samadhan Patil from 11.00 p.m. to 5.00 a.m. of 27th August, 2021. They noticed one Mahindra Pickup van bearing registration No. MH-16/N-633 parked in suspicious condition, on Loni-Sanganmer Road in front of Chandrapur bus stop. Rahul Pawar was the driver and Datta

Chavan was the Cleaner of the said van. On search of the said van 550 kg Ganja, packed in 240 packets in 20 white colour gunny bags worth Rs.75 lakh was found. Ganja was in the form of green colour moistured leafs, seeds and stems. The gunny bags containing Ganja and the Pickup van was seized after drawing *Panchanama*. During the course of investigation, driver and cleaner disclosed name of applicant, being the owner of the said contraband articles.

3. Heard learned advocate for applicant and learned APP for the State. Perused the papers of investigation.

4. Learned advocate for applicant would submit that charge sheet in the present crime is filed and nothing is to be recovered from applicant. He submits that in view of filing of charge sheet, custody of applicant is not necessary. There are total four accused persons in the present crime and three accused are already arrested. He submits that since charge sheet in the present crime is filed, custodial interrogation of applicant is not necessary. Charge sheet is filed against four accused persons i.e. Accused No.1 – Driver, Accused No.2 – Cleaner of Van, Accused No.3 – applicant and Accused No.4 – Narayan Shinde in whose nursery, as per the protection case, contraband substance was kept at the instance of applicant. When the said nursery was

raided, nothing objectionable was found there. Accused No.4 Narayan is already released on bail and accused Nos.1 and 2 are still in custody.

5. By relying on ***"State by (NCB) Bengaluru V/s Pallulabid Ahmad Arimutta and Another"*** 2023 ALL SCR (Cri) 544 and order passed in Criminal Application No. 52 of 2018 dated 30th January, 2018, he submits that since name of applicant is disclosed by co-accused, statement of co-accused has no evidentiary value and, therefore, applicant is entitled for anticipatory bail.

6. Per contra, learned APP strenuously opposed the application, urging that huge quantity of contraband substance is found and applicant is owner of the said contraband substance. There appears racket dealing in contraband substance, which is seized and unless applicant is apprehended, police will not be in a position to trace other other accused persons, who are involved in racket

7. A racket appears to be operating dealing in contraband substance seized, which is in huge quantity and unless applicant is apprehended, police will not be in a position to burst the racket.

8. Huge quantity of contraband is seized in the present crime.

Applicant appears to be part of the racket, which is dealing in contraband substance. Allegations against applicant are serious and *prima facie*, involvement of applicant in the present crime is reflected from investigation papers. Applicant, therefore, does not deserve discretionary relief of anticipatory bail.

9. Statement of co-accused can be considered by investigating agency for conducting effective investigation. Evidentiary value of statement of co-accused is to be considered at the time of trial. Therefore, the argument of learned advocate for applicant that statement of co-accused has no evidentiary value and, therefore, applicant should be released on anticipatory bail is devoid of substance.

10. There appears substance in the submission of learned APP that huge quantity on contraband Ganja is seized by the police authorities and during interrogation name of applicant is disclosed, as owner of said contraband substance. Learned APP is also right in submitting that there appears a racket dealing in contraband substance, which needs to be traced and busted and the same cannot be done without applicant's custodial interrogation.

11. Application is, therefore, rejected.

12. At this stage, learned advocate for applicant seeks continuation of interim protection granted to applicant. For the reasons stated in the order, the prayer for continuation of interim protection is rejected.

[NITIN B. SURYAWANSHI]
JUDGE

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