



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 BAIL APPLICATION NO. 1531 OF 2024

Karan Shivaji Jadhav

....Applicant

VERSUS

The State of Maharashtra

.....Respondent

.....

Mr. A. C. Deshpande, Advocate for Applicant.

Mr. A. A. A. Khan, APP for the State.

CORAM : S. G. MEHARE, J.

DATE : 24th SEPTEMBER, 2024.

PER COURT :

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

2. Applicant seeks bail in Crime No. 398/2024 registered with M.I.D.C. CIDCO Police Station, Dist. Aurangabad for the offences punishable under Sections 20(b)(ii), 8(c) and 29 of the N.D.P.S. Act, 1985.

3. The police had intercepted the vehicle driven by the Applicant. Police found the gunny bags loaded in the vehicle owned by the co-accused. When the investigation was done, police found

commercial quantity of ganja in those gunny bags. At the time of seizing the other co-accused were in the vehicle. The Applicant being a driver cum owner of the vehicle has been arraigned as accused.

4. The learned counsel for the Applicant argued that though it was a commercial quantity, the Applicant was unaware of the contraband being transported through his vehicle. The co-accused, who was the owner of the contraband, had loaded the gunny bags without telling him what is filled in the gunny bags. He is an innocent. He has been arraigned as accused just because he was transporting the gunny bags. He is 19 years old boy having no antecedents. Hence, there would be no bar of Section 37 of the NDPS Act.

5. Learned APP strongly opposed the Application. He would submit that the Applicant being the nephew of the owner of the gunny bags, must have conscious knowledge about what his uncle was transporting. The offence is serious. The quantity recovered from the vehicle of the Applicant was commercial. There are no grounds to show that the Applicant was not guilty of the offence and

he is not likely to commit any offence. Therefore, in view of Section 37 of the NDPS Act, he does not deserve bail.

6. Admittedly, the Applicant was not the owner of the gunny bags. He was the transporter cum owner of the vehicle. The Hon'ble Supreme Court in case of Union of India vs. Shri Shiv Shanker Kesari, 2007 SCC 798, has held that the Court, while considering the Application for bail with reference to Section 37 of the Act is not called upon to record the finding of not guilty. It is for the limited purpose. The Court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and has to record satisfaction about acceptance of such evidence. The Court is not required to consider the matter as if it is a judgment of acquittal and recording finding of not guilty.

7. Considering the contention of reasonable ground for believing that the Applicant is not guilty, the Court is of the view that the possibility of having no knowledge about the contraband being transported in his vehicle cannot be ruled out. The Applicant has a specific case that he and his uncle are not residing together. The young boy may be happy with transporting goods of his uncle in his

vehicle. For these reasons, this Court is of the view that though the quantity of ganja recovered was commercial, the Applicant may be granted bail. Hence the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant Karan Shivaji Jadhav be released on furnishing P.B. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety of like amount in connection with Crime No. 398/2024 for the above offences, on the following conditions :-
 - (a) He should not tamper with the prosecution witnesses.
 - (b) He should not contact co-accused till charge-sheet is filed.
 - (c) He should attend the police station and and when called by the Investigating Officer on written notice, till filing of the charge-sheet.

(S. G. MEHARE)
Judge