



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO.1900 OF 2024**

Tanaji Tukaram Solankar,
Age: 36 years, Occupation: Businessman,
R/o Zargadvadi, Taluka Baramati,
Dist. Pune, Maharashtra. ..Applicant

Versus

The State of Maharashtra,
Through its Police Inspector
Shirpur Police Station, Dhule ..Respondent

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Mr. S. A. Patil, Advocate for the Applicant.
Mr. V. S. Badakh, APP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 13th DECEMBER, 2024.

Pronounced On : 18th DECEMBER, 2024.

ORDER:-

1. The applicant seeks pre-arrest bail in connection with Crime No.106/2023 registered with Shirpur Police Station, Dhule for offences punishable under Sections 20(c), 22(c), 8(c), 27, 27(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The investigation was set in motion on the basis of information given by Mr. Laduram Vitthal Choudhari, officer posted at Shirpur Police Station. In nutshell FIR states that secrete information was received to police station. Consequently, raid was arranged in front of Mahalaxmi Hotel, Shirpur Phata. The co-accused persons were found in possession of contraband/cannabis weighing 21.09 kg. worth Rs.1,69,080/-. The accused/motorcyclist alongwith mobile phone were arrested. Consequently, offence was registered against applicant and co-accused. The applicant has been arraigned as accused on the basis of statement of arrested accused i.e. Vijay Bive. His statement

dated 23.03.2023 is recorded under Section 161 of the Criminal Procedure Code, wherein he states that applicant Tanaji is his friend. They were working together in toys factory. However, he left the job and living in village. The applicant Tanaji is working as driver on private vehicle. The Tanaji invited him to his home and informed that his friend Imalsingh, who is resident of Madhya Pradesh can provide cannabis at cheaper rate, which can be sold in the vicinity of Baramati. You can go to the Imalsingh and bring cannabis from him. On 17.03.2023, Tanaji instructed me to go with Imalsingh to Sendhwa to purchase the cannabis. To facilitate this, Tanaji transferred Rs.50,000/- to Imalsingh's phone via PhonePe app. He also gave Rs.5000/- in cash for travel expenses. While we were in Sendhwa, Tanaji kept in contact with Imalsingh through WhatsApp voice calls and guided us from time to time. On 21.03.2023, he received cannabis through Imalsingh and took it to Baramati.

3. The whole basis of the prosecution is the statement of co-accused to show involvement of applicant in commission of offence. The investigation is complete and charge-sheet is also filed. In entire charge-sheet, except aforesaid statement of co-accused, there is nothing to bring complicity of the applicant.

4. Mr. Patil, learned Advocate appearing for the applicant submits that statement of co-accused recorded under Section 161 of the Criminal Procedure Code would not be admissible in evidence. Even charge-sheet does not contain any material to show that applicant had transferred an amount of Rs.50,000/- to the accused or co-accused. This Court after considering aforesaid factual and legal aspects, granted ad-interim pre-arrest bail to the applicant vide order dated 31.10.2024.

5. Having considered submissions advanced, it is apparent that applicant is sought to be implicated as accused only on the basis of alleged statement of co-accused. Apparently, such statement cannot form basis to bring complicity of the applicant in commission of offence. The investigation papers nowhere depicts that applicant has transferred any amount to the accused persons as stipulated in the statement of the co-accused. Even, during the course of investigation, investigating officer could not procure details of telephonic conversation or call record depicting contact between applicant and co-accused during relevant period. It is not the case of the prosecution that applicant has not co-operated after granting interim bail under order dated 31.10.2024. In that view of the matter, interim protection of pre-arrest bail granted under order dated 31.10.2024 needs to be confirmed. Hence, following order:

ORDER

- a. Anticipatory Bail Application is allowed.
- b. In the event of arrest of the applicant in furtherance of Crime No.106/2023 registered with Shripur Police Station, Dhule for offences punishable under Section 20(c), 22(c), 8(c), 27, 27(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985, he be released on bail on furnishing PR Bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount on following conditions:
 - (i) The applicant shall not tamper with the prosecution evidence.
 - (ii) The applicant shall attend concerned police station, in case specific notice is served upon him and co-operate for further investigation, if so required.

(iii) The applicant shall attend proceeding in Special Case No.152/2024 without any default.

6. Anticipatory Bail Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/December-2024