



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 626 OF 2024

Sau. Kiran w/o Shivdayal Thakur Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Nitesh Samundre, counsel for applicant.

Mr. A.V. Palshikar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 314/2024 registered with police station Kardha, District Bhandara, for the offence punishable under Section 20(b), 20(b)(ii), 8 (c), 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by Randhir D. Dongare, who was on patrolling duty along with other staff members. He received the secrete information that contraband articles are being transported in a truck bearing No. CG-04-JD-5267. He, along with the panchas and other raiding party members, intercepted the said truck, and during search of the said truck, the contraband Ganja, weighing 18.450kg, worth of Rs. 2,77,275/-, was seized from the two bags. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that, as far as the present applicant is concerned, there is no allegation that either she has procured the said contraband article from any place or she is associated with the present applicant. The only allegation is that the said truck which was intercepted, is standing in the name of the present applicant. He submitted that, in fact, the present applicant entered into the agreement with co-accused Shailesh Narayan Meshram, who sold out the said truck, as the entire consideration amount was not paid by the co-accused, and therefore, the said truck is still standing in the name of the present applicant. As far as the custodial interrogation is concerned, which is not required, as nothing is to be recovered from the present applicant. In view of that, she be protected by granting ad-interim anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that, considering that the said truck standing in the name of the present applicant and she is associated with the other co-accused, her custodial interrogation is required. In view of that, the application for grant of ad-interim protection deserves to be rejected.

5. Heard both the sides, perused the recitals of the FIR and other relevant documents which are filed on record, from which it reveals that present applicant is arraigned as an accused, only because she is the owner of the truck bearing No. CG-04-JD-5267, which was intercepted. The agreement to sell between the present applicant and the

co-accused is on record, from which the submissions of the learned counsel are substantiated.

6. The decision of the Hon'ble Apex Court in the case of *Tofan Singh Vs State of Tamil Nadu [(2021) 4 SCC 1]* which was referred by the Hon'ble Apex Court in the case of the *State of Haryana vs Samarth Kumar [2022 SCC OnLine SC 2087]*, wherein it is held that, judgment would come to the assistance of the parties at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial. Considering, there is no allegation either that co-accused has given a statement showing her involvement in the alleged crime. Apparently, it reveals that, merely because the truck is standing in her name, she is arraigned as an accused. Considering the same, the prayer for grant of ad-interim protection deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application is allowed.
- b] In the event of her arrest, in connection with Crime No. 314/2024 registered with police station Kardha, District Bhandara, for the offence punishable under Section 20(b), 20(b)(ii), 8 (c), 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, the applicant – Kiran w/o Shivdayal Thakur shall be released on bail, on executing

PR. bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station once in a week on Monday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- e] The applicant shall produce her cellphone number(s) and address with the address proof before the investigating officer.

[URMILA JOSHI-PHALKE, J.]