

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 4332 OF 2021

Vishal Sukhdev Yernale

... Applicant

Versus

The Commissioner of Customs & Anr.

... Respondents

Mr. Niranjan Mundargi a/w. Ms. Keral Mehta i/b Mr. Rahul Khot for the Applicant.

Mr. Kiran C. Shinde, APP for the State.

Mr. Rushikesh Munde a/w. Mr. Tejas Bhattacharya and Ms. Shatabdi Netke for respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATED : 17th MARCH, 2025.

P.C.:

1. The applicant is seeking regular bail in Crime No. 3 of 2020 registered with Inspector of Custom (Narcotic Cell), Pune under Section 8(c), 20(b) (ii) (c), 25 and 29(1) of the Narcotic Drugs Psychotropic Substances Act. It is prosecution case that on a secret information, police had intercepted the truck of the applicant on 04.10.2020. Police took search of the abandoned truck on Solapur-Hyderabad Highway. In the said truck, police found 412 kg Ganja in the cavity of the cabin. It is alleged that the applicant is the owner of the said truck. It is the contention of learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant was not present when the police recovered Ganja from the said truck. Though the police state that they have seized only green leaves of Ganja but CFSL report shows in description of exhibits that "Dried fruiting & flowering tops and dried leaves & dark green purported Ganja". The examination report also shows that dried green coloured

vegetative material comprising flowering and fruiting tops and leaves. It shows discrepancy in the panchnama prepared on the spot and the report of CFSL. The applicant is behind the bar around 5 years. Yet the trial has not concluded. Hence, requested to allow the application.

2. It is the contention of learned Special PP that the truck in which commercial quantity of Ganja found belongs to the applicant. The applicant is the owner of said truck. The applicant was aware that Ganja is being carried in the said truck. Though there is discrepancy in the mentioning of the Ganja leaves in the panchnama and CFSL report, it is typographical mistake as huge commercial quantity of Ganja found in the truck belongs to the applicant. Provisions of Section 37 of NDPS Act will apply against him. If he released on bail, he may abscond. Hence, requested to reject the application.

3. I have heard both the learned counsel. Perused the charge-sheet. In the panchnama dated 04.10.2020 prepared on the spot, it is mentioned that green leaves packet having strong odour found in the truck. In the panchnama, it is not mentioned that the said packets were with leaves fruiting and flowering tops. In the CFSL report in column of description of exhibits, it is mentioned that "Dried fruiting & flowering tops and dried leaves & dark green purported Ganja". So the sample sent to the CFSL was along with fruiting and flowering tops but in panchnama it is mentioned that there were only packets of Ganja leaves. In report of CFSL also it is mentioned that fruiting and flowering tops. Learned Special PP submits that there is typographical mistake but it cannot be considered as typographical mistake because it is not clear from the prosecution case that

only leaves were seized from truck of the applicant or it was with fruiting and flowering tops to prove this fact is part of trial. The applicant is behind the bar around five years. Yet trial has not concluded. It may take time to conclude the trial. Considering these facts, I pass following order: -

ORDER

- (i) The applicant be enlarged on bail in Crime No. 3 of 2020 registered with Inspector of Custom (Narcotic Cell), Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
 - (ii) The applicant shall attend the concerned police station as and when required.
 - (iii) The applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
 - (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
4. The Bail Application stands allowed in the aforesaid terms and disposed of accordingly.
5. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.
6. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

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