



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

CRIMINAL APPLICATION (BA) NO.139 OF 2025

Shushant @ Shrikabnt s/o Prashuram Nayak (Jail)
Vs.

State of Maharashtra, thr. PSO, PS GPR Railway Taluka District Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Ajay Londhe, Counsel for the applicant.
Mr. M.K. Pathan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/04/2025

1. Heard.
2. By this application, the applicant is seeking for grant of bail as he came to be arrested on 05.11.2024 in connection with Crime No.406/2024 registered with Police Station GRP Railway TQ District Akola for the offences punishable under Sections 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS') Act.
3. The crime is registered on the basis of the report lodged by Police Officer on an allegation that they found two persons in a suspected condition. Therefore, they have intercepted them and during search of their bags the contraband article Ganja weighing 24.700 kg was found alongwith them. After following the mandatory provisions i.e. issuing the notice under Section 50 of the NDPS Act and offering

search, the bags were searched and the samples were obtained and the co-accused were arrested. On the basis of the said, report police have registered crime.

4. During investigation the statements of the co-accused are recorded and CDR also collected. From the statements of the co-accused the involvement of the present applicant is also revealed and therefore he is arrested.

5. Learned counsel for the applicant submitted that except the statement of co-accused there is no other material to connect the present applicant with the alleged offence. The statements of the co-accused is not admissible in view of the judgment of the Hon'ble Apex Court in the case of ***Tofan Singh Vs. State of Tamil Nadu*** reported at ***(2021) 4 SCC 1*** wherein it is held that confessions under Section 67 of the NDPS Act against the co-accused are inadmissible and prayed for release of the applicant on bail.

6. Learned APP strongly opposed the said application and submitted that the involvement of the present applicant is revealed on the basis of the statement. Moreover during investigation it revealed that the present applicant and other co-accused Johel Sobar were also found involved in other similar nature of the offences at District Gajapati Police Station Adhava State Orissa vide FIR No.88/2022. Thus connection between the present applicant and other co-accused reveals from the said criminal

antecedent also. He submitted that in another offence also co-accused is already taken into custody. Present applicant is also taken into custody by Mumbra Police Station, Thane City in crime No.2283/2024 registered under Sections 8(c), 20(c) and 29 of the NDPS Act. Thus, considering the connection between the present applicant and other co-accused his involvement is revealed. In view of that, the application deserves to be rejected as there is rigor under Section 37 of the NDPS Act.

7. After hearing both sides and on perusal of investigation papers, it reveals that except the statement of co-accused, there is no other material to connect the present applicant in the alleged offence. The CDR reports were collected by the investigating agency. In the CDR reports nowhere shows any communication between the present applicant and the other co-accused. Mere criminal antecedents against the present applicant alongwith other co-accused are not sufficient at this stage, to consider the bar under Section 37 of the NDPS act. The applicant has made out the case for grant of bail. In view of that, the application deserves to be allowed.

8. Accordingly I proceed to pass following order:

ORDER

- (i) The application is allowed.

(ii) The applicant- **Sushant @ Shrikant s/o Prashuram Nayak** shall be released on bail in connection with Crime No.406/2024 registered with Police Station GRP Railway TQ District Akola for the offences punishable under Sections 20(b)(ii) and 29 of the NDPS Act on executing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the present case.

(iv) The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall attend the concerned police station once in a month on 5th of every month till culmination of the trial.

(vi) The applicant shall not indulge in similar types of activities and single incident of his involvement would lead to his cancellation of bail.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

(5)

907 ba 139.25.odt.