



In The Court of Judge Judge Special Court NDPS and
Additional Sessions Judge-7, Nagpur.

Presided over by
Shri. P. M. Nagalkar.

I.A.No.2 of 2024.

Exh.33

In

Spl. Case No.620 Of 2022.

CNR No: MHNG010120502022

Crime No.385 of 2022, P. S. GRP Nagpur.

Imran Mohammaed S/o Irshad Qureshi
V/s
State of Maharashtra.
(Through P.S.GRP Nagpur.)

Order below Exh.33
(Date: 20th January 2024)

1. This is an application for issuance of directions as applicant/accused Imran Mohammed S/o Irshad Qureshi **be released on bail**, U/Section 439 of the Code of Criminal Procedure. Applicant/applicant Imran Mohammed S/o Irshad Qureshi is booked in Crime No.385 of 2022, for the offences punishable U/Sections 20(B)ii(C) and 29 of the NDPS Act.
2. Perused the application along with documents annexed here with and say/report of Investigating Officer/APP. Heard both the sides at length.

3. It is submitted that this applicant Imran, is juvenile and no more concerned with this crime as falsely implicated in this case. The alleged quantity is contraband is intermediate quantity as 13.294 Kg of Ganja. Hence, rigor of Section 37 is not applicable as the charge-sheet already filed, hence, application be allowed and accused be released on bail.
4. On the other hand the prosecution opposed the application on the ground that the seizure effected from the various accused persons were jointly travelling with the alleged contraband and huge quantity of 106.807 kg seized which is commercial quantity. It is also submitted that these accused had earlier claimed as juvenile but proper inquiry by the Juvenile Justice Board and after due inquiry by the Juvenile Justice Board it is held and revealed that he is adult and therefore, booked and arrayed in the present case. It is further submitted that though the quantity seized from the accused is intermediate but all the accused persons were collectively and in collusion with traveling and in order to avoid the total quantity they have distributed and therefore, Section 37 is applicable. Hence, application be rejected.
5. In the light of this facts emerged, submissions by the parties and material on the record, the following points arise for determination before this Court. The said points and the findings thereon which follow the reasons as:

Point For Determination.

Sr. No.	Point	Finding
1.	Whether the applicant/accused Imran Mohammed S/o Irshad Qureshi, made out the case as to issuance of direction as to be released on bail , in the given set of facts?	...No.

2. What order?

...Application
Rejected as per
final order.

REASONS

As to the point no.1:

6. From the record it appears the allegations that GRP had received an information that New Delhi-Andhra Pradesh Express in coach no.4 berth no.1 to 12 and the passengers therein carrying the alleged contraband.
7. As the train came at the Nagpur on platform no.1 search was taken and inquiry was made to the lady at berth no.10 she is not given proper answer and hence, as per the information other passengers were also inquired. From the accused 40 bundles wrapped in cello tape was found. The accused Imran earlier stated his name is as 16 years, therefore, referred to child protection home and other accused persons were arrested. It is also revealed during inquiry at the search that the accused No.7 Aakash had purchased the said contraband given to them and also taken tickets for eight people.
8. As it was revealed that the applicant Imran had taken education at Balvidyalay Shahajan, Delhi. Hence, his documents were called that it was inferred that his date of birth is 15/03/2002 and accordingly as per order of Juvenile Justice Board and he had been arrested in the crime.
9. Since, it is submitted that though the order attended the finality but it is not conclusive applicant was adult on the day of incident.
10. Further, it is submitted that alleged quantity seized from the accused is not commercial quantity. On going through the record it appears that from the accused Imran the seizure of bag which is labeled as B

and in which several bundles were found. It is almost of more than 2 Kg but less than 3 Kg. As such 14.894 Kg of Ganja was found.

11. It is not case that the applicant was found separately along with apart from other accused persons. On the other hand this applicant was found with the other accused persons and as such though the seizure made of 14 Kg but collectively he is also involved in conspiracy with this as total count the alleged contraband which is commercial quantity.
12. On behalf of the applicant it is submitted that the applicant is in custody since two years and trial could not commence. However, the trial can be expedited as taking into consideration commercial quantity of the alleged contraband Section 37 is relevant. As such condition imposed in Section 37 the opportunity to the prosecution must be given and second one as if the application opposed then it is incumbent upon the accused as to show that there is no reasonable ground for believing that the accused is not guilty of such offence. The reasonable ground must be construed as with credible and plausible ground.
13. By taking into consideration all these aspects merely the accused in custody and trial take time to conclude cannot be a ground as to absolve the criminal liability. Hence, this Court is of opinion that this is not fit case to discretion of bail. Hence, the finding of point no.1 is recorded as "Negative". Consequently, proceed to pass following order.

ORDER

1. Application is hereby rejected.
2. The prosecution is directed to secure presence of material witnesses and to take all steps as to expeditious the trial.

Dictated and pronounced in open Court.

Date : 20th January 2024

(Pramod M. Nagalkar)
Judge, Special Court NDPS Act,
Nagpur.

Case Argued on	19.01.2024
Judgment dictated on	20.01.2024
Transcription Ready on	20.01.2024
Order Checked and signed on	20.01.2024

CERTIFICATE

I affirm that the contents of this PD.F file Judgment are same, words to word, as per original Judgment.

Name of the Stenographer : Mr. S. M. Likhitkar