

**Special Case No. 94/2021**  
**(CNR-MHOS01-002037-2021)**

State of Maharashtra

Vs.

Pintu Ambadas Shinde & Anr.

**ORDER BELOW EXH. 53**

1. By this application, the applicants - Pintu Ambadas Shinde and Raju Ambadas Shinde are seeking bail u/s. 439 of the Cr.P.C., in connection with Cr.R. No. 84/2021 for the offences punishable u/s. 8(c), 20 (b)(ii) and 29 of the N.D.P.S., registered at Osmanabad (Rural) police station.
2. Perused application, say filed by learned Spl. P.P. & charge sheet. Heard both sides at length.
3. The prosecution case is nutshell is that, informant Dattatraua Survase, Police Inspector lodged FIR that on 15.04.2021 alleging that at 19.30 hours on receipt of secret information he alongwith police staff arranged a trap. At about 22.05 hours, they stopped one car bearing No. MH-03- DW-9056 near Hotel Kalika. The raid was conducted in presence of panchas and after search of that car a travel bag containing Ganja weighing 27.989 K.G. On these allegations he lodged report.
4. The learned advocate for the applicant submits that, the applicants are falsely implicated in the aforesaid crime. The police authority has not seized any contraband from the

conscious possession of present applicants. The applicants have no concern with the alleged crime. The investigation is over and charge-sheet is filed. The applicants came to be arrested on 16-04-2021 and 21.02.2022 respectively. There is no any criminal antecedents against the present applicants. The mandatory provisions of NDPS act has not been complied by the raiding party at the time of carrying raid.

5. The charge is framed on 13.06.2022. Till date, no any prosecution witnesses has been examined. Mother of applicants died and their father is suffering from illness and angiography is also conducted. The applicants are the only earning members of their family. They are married and having minor children. The trial will take its own time to conclude it. Thus, there is change of circumstance. The further detention of the applicants are not warranted. Hence, applicants be released on bail by imposing suitable conditions.

6. Per contra, learned Spl. P.P. submits that, offence is serious in nature. The accused were found in possession of Ganja of commercial quantity in the car. The previous bail application came to be rejected on merits. There is no change in circumstance except filling of charge-sheet. Thus, there is prima-facie accusation against applicants. In the event of release of applicant on bail, possibility of threatening the informant and abscondence of accused cannot be ruled out. It submitted that, looking to the gravity of the offence prayed for rejection of application.

7. I have considered this submissions. From the record it is apparent that investigation officer has not taken samples from each of the packets for the purpose of FSL examination. In the said circumstance, when there is blatant violation of Standing Order, the applicant is entitled to release on bail. Though charge is framed on 1306.2022, yet no any prosecution witnesses has been examined. The applicants are in custody since April 2021. The mother of applicants already died and father is suffering from heart attack. The applicants are sole earning members in their family.

8. Due to pendency of old matters, there is no likelihood of conducting the trial at the earliest opportunity. After considering the circumstance emerging from record, no purpose would be served by keeping the applicants in jail. The co-accused Rama Arjun Shinde and Swati Sanjay Shinde have been released on bail. The Hon'ble Apex Court directed the subordinate Courts to release the under trial prisoners in appropriate case and looking after circumstance of the case. The grant of bail is a rule and rejection is an exception. It is now well settled by a catena of decisions of Hon'ble Apex Court and Bombay High Court that the power to grant bail is not to be exercised as punishment, before trial, is being imposed the material considerations in such a situation are whether accused would be readily available for his trial and whether he is likely to abuse the discretion granted in his favour by tampering with evidence. (**BhagirathiSinh Judeja Vs. StateAIR 1984 SC 372**). The applicant undertakes to abide each and every condition

imposed by this Court.

9. So far as apprehension on the part of I.O. that applicants will tamper the prosecution evidence if released on bail, it can be taken care of by imposing certain conditions. They are ready to abide the conditions imposed by the Court. Hence, I proceed to pass the following order :-

**ORDER**

[1] Application (Exh.53) is allowed.

[2] Applicants/accused - Pintu Ambadas Shinde and Raju Ambadas Shinde be released on bail for the offence punishable under Section 8(c), 20 (b)(ii) and 29 of the NDPS, in C.R. No. 84/2021 registered at Osmanabad (Rural) Police Station, on executing P.R. Bond of Rs.25,000/- each along with solvent surety of the like amount on the following conditions :-

- (a) They shall not tamper with the prosecution evidence.
- (b) They shall attend the court on each and every date, till the conclusion of trial.

[3] They shall produce his Aadhar card, electricity bill and mobile number etc. to show his permanent place of residence, at the time of furnishing surety in the court.

Date :- 27-03-2023

(G.P. Agrawal)  
I/C.Additional Sessions Judge,  
Osmanabad.

**CERTIFICATE**

I affirm that, the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

|                                             |       |                                               |
|---------------------------------------------|-------|-----------------------------------------------|
| Name<br>Stenographer                        | of -- | Mandar M. Kashikar,<br>Stenographer (Grade-I) |
| Court                                       | --    | District Court-3, Osmanabad.                  |
| Date                                        | --    | 27-03-2023                                    |
| Order signed by the<br>Presiding Officer on | --    | 27-03-2023                                    |
| Order uploaded on                           | --    | 27-03-2023                                    |