



**IN THE COURT OF ADDITIONAL SESSIONS  
JUDGE AT PANVEL, DISTRICT- RAIGAD**

SPECIAL CASE NO.125/2024

The State of Maharashtra --- Prosecution

Vs.

Nilesh Laxman Deshmukh & Ors. --- Accused

**Corum** - Santosh C. Shinde

**Date** - 18<sup>th</sup> December 2024

**Appearance-**

Ld. Adv. Mr. Rahul Warde for applicant.

Ld. Additional Public Prosecutor Mr. A. R. Kadam for State.

**Order Below Exh.3 & 5**

1. Application at exh.3 is filed by accused No.1 Nilesh Deshmukh while application at exh.5 is filed by accused No.2 Arjun Devkar for regular bail after filing of charge-sheet.
2. Say of State of Maharashtra was called upon. Say is filed overleaf the applications and applications are strongly objected.
3. Heard Ld. advocate Mr. Rahul Warde & Smt. Yogini Kadam for accused and Ld. Addl. P. P Mr. Ankush Kadam for the State.
4. Advocate for accused submitted that accused are falsely

implicated and description of Ganja in FIR do not qualify same to be ganja. Accused No.1 is driver by profession & do not trade in contraband. Ganja & car has been seized. Investigation is over. Further custody is not required. There is breach of section 42 & 50 of the NDPS Act. There is non-compliance in respect of various provisions of the NDPS Act. Samples are not collected as per procedure. Accused were not made aware about their right u/s.50 of the NDPS Act. Two samples of 25 gm were not collected. CA report is not on record. Trap was not conducted on spot. There is difference of 1.5 kg weight of which no explanation is given. There is delay for inventory u/s.52A of NDPS Act. There is difference in time. Accused No.1 is driver of the vehicle and that vehicle is in name of another person.

5. Advocate for accused further submitted that accused No.2 is falsely implicated. On day of incident, he had gone to visit one temple and due to job commitment, he decided to come back at home therefore he was looking for paid cab near Jari Mari Dhaba. That time car of accused No.1 came near him and accused No.1 asked for any assistance. For consideration of Rs.400/- accused No.1 agreed to drop accused No.2 at Badlapur. He was not aware as to what is inside the car. He is not concerned with the offence.
6. Addl. P. P submitted that offence is serious in nature. There is sufficient evidence against both accused. There is proper compliance u/s.42 & 50 of the NDPS Act. Ganja in commercial quantity is found in possession of accused. Rigor u.s37 of the NDPS Act is applicable.

7. Perused the charge-sheet.
8. Record shows that on 7th March 2024 credible information was received by Police Naik Ankush Mhatre of Anti Narcotic Cell, Crime Branch Mumbai that at about 5.40 PM both accused are coming near Jari Mari Dhaba situated at Village Ajiwali on Shendung Palaspe road in a four-wheeler bearing registration No.MH-04-KR-2357 to sell Ganja. Said information was written down in the register and that information was communicated to superior officer. Necessary arrangements were made for trap and along with panchas police party went on spot.
9. As per record, police party reached on spot around 9.30 PM and waited there. At about 9.40 PM one white colour car No. MH-04-KR-2357 reached on spot and both accused get down from the car. Both were accosted by police team. Notice u/s.50 of the NDPS Act was given to both of them. Except mobile phones, no contraband was found in personal search of both accused. In search of vehicle, in two white colour nylon bags 34.400 kg Ganja was found. Contraband was seized and both accused were taken in custody. Vehicle was also seized.
10. Before this bail application, accused No.2 had filed bail application before filing of charge-sheet but same was rejected by My Ld. Predecessor by order dt.3rd August 2024. If contention of accused No.2 regarding taking lift in the car of accused No.1 is considered then it is not made clear as to why he had not hired any car by online booking. Car of accused No.1 is private car. It is not the case that along with accused No.2, other persons were travelling in the car of accused No.1 as

passengers. There is no possibility that accused No.1 will take an unknown person in his private vehicle during night hours when his car was not booked on rent. At present contention raised by accused No.2 is not believable.

11. If statement of owner of car is considered then it becomes clear that he as per oral agreement had given his car to accused No.1 and accused No.1 had to pay Rs.1000/- per day to owner for use of that car. It is not disputed that Ganja in commercial quantity was found in the said car and no proper explanation is given by accused as to how Ganja was found in the car. When contraband was seized both accused were found in the car which shows that both were aware about the same. Both accused were in conscious possession of the contraband.
12. So far as non-compliance of section 50 of the NDPS Act is concerned then contraband is recovered from the vehicle and in personal search of both accused no contraband was found therefore, there is no merit in the argument of non-compliance of section 50 of the NDPS Act. So far as non-compliance of section 42 is concerned then the officer to whom information was communicated was gazetted officer and he was member of raiding party. So also, non-compliance, if any, of section 42 & 52A of the NDPS Act can be considered during the trial therefore, there is no merit in the argument on these points. So far as delay in inventory u/s.52A of the NDPS Act is concerned then accused have not shown what prejudice they have caused by such delay.
13. No doubt, chemical analysis report is awaiting but only for that

reason accused cannot be released on bail as Ganja in commercial quantity has been seized and at present there is no material on record to show that accused have not committed any offence. Rigors u/s.37 of the NDPS Act will be applicable in present case. In such circumstances and after considering material on record, I am not inclined to grant bail to accused. There is no merit in the applications and both applications are liable to be rejected. As a result, I pass following order.

**ORDER**

1. Application are rejected.
2. Registry to inform accused about this order by e-mail.

(Applications are disposed of accordingly)

Panvel  
Date - 18/12/2024

Sd/-  
(S. C. Shinde)  
Addl. Sessions Judge  
Panvel, Dist.- Raigad