

Order passed below Exh.7 in Special (NDPS) Case No.2 of 2019.
(CNR No.MHST01001216-2019)

01. This is an application under Section 439 of the Code of Criminal Procedure for grant of bail filed by the accused Nos.1 and 2.

02. It is contended that, Police Station Officer of Satara City Police Station has registered C.R.No.90 of 2019 for the offence punishable under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the said Act” for short). It is alleged in the FIR that, on 07.02.2019, police received confidential information that, accused Nos.1 and 2 are carrying *Ganja* in Santro Car bearing No.MH-11-Y-3796 and two wheeler bearing No.MH-11-AS-1541. Police have arranged trap and seized total *Ganja* weighing 86 k.g. 100 grams in presence of independent panchas from the possession of accused Nos.1 and 2. According to the accused they are innocent. There is no evidence against them to prove that, they were found in possession of *Ganja*. The earlier bail application was filed during investigation. The Court has rejected the same on the ground that, investigation is in progress. The accused have moved this subsequent second bail application for grant of bail on the ground that, investigation is over. There is no sufficient evidence against the accused to proceed further under the provisions of the said Act. The accused are innocent. They are falsely implicated in this case. Hence, application be allowed.

03. The learned A.P.P. for the State has filed say at Exh.9 and contended that, accused were found in possession of 86.100 k.g. *Ganja*. The quantity of *Ganja* is commercial. There is sufficient evidence against the accused. They are not entitled for bail. Hence, their bail application be rejected.

04. Heard learned Advocate for the accused and learned A.P.P. for the State at length. The learned Advocate for accused has argued that, the accused are innocent and nothing was found in their possession. The Investigating Officer failed to follow the mandatory provisions of Section 42, 50, 51, 52-A, 55 and 57 of the said Act. Hence, he requested to release them on bail.

05. I have perused the FIR. It appears that the accused were found in possession of 86.100 k.g. *Ganja*. The quantity of *Ganja* is commercial quality. The offence is cognizable and non bailable under Section 37 of the said Act. I have perused the statements of witnesses, inventory and contents of seizure panchanama. It appears that the Investigating Officer has followed the provisions of Section 43 of the said Act before making trap and prepared arrest and seizure panchanama in accordance with the provisions of law. They have also followed the conditions laid down under Section 50 of the said Act. They have followed the conditions of search of person. They have also followed the procedure of Section 55 and 57 of the said Act. The offence is cognizable and non bailable.

06. As the provision itself proves that, no person shall be granted bail unless two conditions are satisfied viz. the satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and that he is not likely to commit any offence if released on bail. Both these conditions have to be satisfied. If the conditions are not satisfied the bar operate and the accused cannot be released on bail.

07. The Investigating officer has followed the mandatory provisions of law laid down in Chapter V of the said Act. The accused were found in possession of *Ganja* in commercial quantity. At this stage, accused are not entitled to be released on bail. Considering the facts and circumstances stated above, I do not find any special reason to allow the application. Hence, I proceed to pass the following order

ORDER

Application stands rejected.

Satara.

Date : 27.05.2019.

(Anis A. J. Khan)
Additional Sessions Judge,
Satara.