

NDPS Special Case No.24/2022.
Mansur Shah Sardar Shah Vrs. State
Crime No.752/2021, P.S. Risod.
CNR No.MHWS01-000570-2022

ORDER BELOW EXHIBIT 33.

(Passed on 18/06/2022)

This is an application filed by applicant/accused Mansur Shah Sardar Shah for grant of regular bail under section 439 of the Code of Criminal Procedure in Crime No.752/2021 of Risod police station for the offences punishable under Section 8(c), 20(b)(ii) and 29 of N.D.P.S. Act.

2] The prosecution case in brief is that :-

On 18/10/2021, PSI Santosh Ramesh Nemnar had lodged report on behalf of State to Risod police station alleging that on 18/10/2021, when informant and other police personnel were discharging their duty at police station, they received secret information that one Eicher vehicle bearing registration No.MH28-BB-0867 came from Hingoli transporting the 'Ganja'. Said vehicle is loaded with gunny bags of cattle fodder and beneath those bags, there are 'Ganja'. Upon receiving this information, PSO Sarang Navalkar went along with panch Shri Bansod, Nayab Tahsildar, Sandeep Barde, photographer Santosh to Hingoli-Risod road for conducting raid. During search of said vehicle, four persons were found in the cabin including driver. Those are Gotiram Sable, Siddharth Gavhande, Pravin Chavan and Sandip Chavan. In that vehicle, there were 70 bags of cattle

fodder, and beneath thereof, there were 56 bags of 'Ganja' found weighing about 11 quintal 50 Kg. Said 'Ganja' was seized and those four persons were arrested by the police and the FIR was registered vide Crime No.752/2021 under Section 8(c), 20(b)(ii) and 29 of N.D.P.S. Act.

3] During investigation, said seized truck found to be in the name of Mohammad Zaim Mohammad Ibrahim, resident of Nandura, District Buldhana. Police while verifying chasis number of said truck, they came to know that chasis number was not printed on truck. Therefore, they inquired with RTO office. Thereafter, during investigation, police came to know that said vehicle was purchased by accused No.10 from Satish Motors, MIDC, Akola. After inquiry with Tata Motors Finance Office in respect of said vehicle, they produced the sell documents to police. Therefore, the name of accused No.10 came to be added in FIR and Section 420, 201 of the IPC added.

4] According to advocate for applicant, previous bail was rejected as investigation was in progress and charge-sheet was not filed. Now, charge-sheet is filed. Trial is not likely to commence in near future. Co accused are released on bail. Present applicant was arrested on 12/11/2011 from his residence at Shegaon. It is alleged that Rahul has made confessional statement that he has sold Ganja to present applicant. But Rahul was not found on the spot. Hence, said confessional statement is not admissible. And on that basis

present applicant cannot be charged as accused in this case. It is falsely claimed by the police that applicant has Whatsapp communication with co accused for the purchase of Ganja. No prima facie case is made against the applicant. Hence, prayed for allow the application.

5] In support of his contention, learned advocate for applicant relied on following authorities.

- 1) Toofan Singh Vrs. State (S.C.) Criminal Appeal No.152/2013, D.on 29/10/2020
- 2) Sachin Vrs. State (Bombay), Criminal B.A. No.2358/2021, D.on 03/01/2022.
- 3) Rahul Vrs. State (Bombay), Criminal B.A. No.2877/2021, D.on 03/01/2022
- 4) Daryappa Akkiwad Vrs. State (Bombay), Cri. B.A.No.3663/2021, D.on 03/01/2022
- 5) Sudam Babar Vrs. State, (Bombay), Cri. B.A.No. 1796/2021, D.on 15/12/2021
- 6) Abraj Vrs. State (Bombay) Criminal B.A.No.2969/2021, D.on 14/12/2021.
- 7) Ramesh Vrs. State (Bombay) Criminal B.A.No.1329/2021, D.on 30/11/2021.
- 8) Shatrughna Vrs. State (Bombay), Criminal B.A.No.899/2021, D.on 07/10/2021.
- 9) Krushna Vrs. State (Bombay), Criminal B.A.No.470/2021, D.on 24/06/2021
- 10) Nasim Banu @ Lali Vrs. State (Bombay), Criminal B.A.No.1721/2020, D.on 31/03/2021.
- 11) Manoj Vrs. State (Bombay), Criminal B.A.No.1392/2020, D.on 16/12/2020 and

12) Rohan Vrs. State (Bombay), Criminal B.A.No.924/2018, D. on 10/12/2018.

6] According to learned APP, mobile seized from accused shows that exchange of photos through Whatsapp and its also found that he has given money to Rahul to purchase Ganja. During investigation, IO collected CDR record which shows that he was in contact with Rahul and Rahul has sent the photographs to this accused on his Whatsapp. Hence, prayed for rejection of application.

7] While granting the bail Court has to see the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of their tampering with the witnesses and obstructing the course of justice and such other grounds are required to be taken into consideration.

8] While considering the application for bail, it is to be seen whether there is a reasonable ground for believing that the accused is not guilty of the offences he is charged with and further that is not likely to commit an offence under the said Act while on the bail.

9] In the present case, IO seized 56 bags of Ganja weighing 11 quital 56 Kg. And it is the specific case of the prosecution that it was modus operandi of accused that amount was transferred to the account of Rahul and his father

used to do the business of supply of Ganja. So, we will have to consider bail application of each accused person in this background.

10] On going through the CDR report, it appears that this accused was in contact with Rahul. They have exchanged the photographs of Ganja. So, I found much substance in the submission of learned APP that as per the Modus Operandi, amount was transferred in the account of Rahul and business of Ganja was carried out by his father. Moreover, CDR report shows that all the accused persons were in contact with each other. So, prima facie there is involvement of accused person and he has not made out the case for grant of bail and his bail application deserves to be rejected. Hence, I pass following order.

ORDER

Application Exh.33 is rejected.

Date: 18/06/2022.

(H. M. Deshpande)
Additional Sessions Judge,
Washim.

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 of Stenographer :- R.R.Bharad, Stenographer (Grade-I)
Name of Court :- Shri H.M.Deshpande,
District Judge-1 and Additional
Sessions Judge, Washim, Tq. Dist.
Washim.
Date of Judgment/ Order :- 18/06/2022
Judgment/Order signed by :- 18/06/2022
the Presiding Officer on
Judgment/Order uploaded on :- 18/06/2022