

NDPS Special Case No.24/2022.  
Rahul Gotiram Sable Vrs. State  
Crime No.752/2021, P.S. Risod.  
CNR No.MHWS01-000570-2022

**ORDER BELOW EXHIBIT 39.**

(Passed on 18/06/2022)

This is an application filed by applicant/accused Rahul Gotiram Sable 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 learned advocate for applicant, applicant does the business of *Patravali* and for that purpose, he has transferred money to his counter part in Andhra Pradesh. According to him, initially his name was not in FIR, when he was attending the police station, and his father was arrested, he was made accused as his younger brother did not surrender. He was not present on the spot. Prosecution must prove that amount was transferred by applicant only for purpose of Ganja. Prosecution has not collected the material which shows that transaction were disputed. Moreover,

prosecution has not made those persons accused to whom Rahul has transferred the amount. Hence, prayed for grant of regular bail.

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, the modus operandi was that money was transferred to Rahul and business of purchase of Ganja was done by his father Gotiram. During the investigation, police collected the messages which accused Rahul has sent to Ganesh and other persons. It was also revealed that on Whatsapp, he has sent some photographs of Ganja. Police also collected the CDR record which shows that all the accused persons were in contact with each other. All these things show that this accused has taken active role in the crime. So, his bail be rejected.

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 quintal 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] In the present case, IO collected the statement of bank account of Rahul which shows that Rahul received Rs.2 lacs on 15/10/2021 from Abdul Mobin. This Abdul Mobin make available Eicher truck to Gotiram. Though, it is contended that accused Rahul was doing the business of *Patravali*, no cogent evidence or documents are filed on record to show that he was really doing that business. During the investigation, police also seized mobile from Ganesh which shows that there was Whatsapp chat between Rahul and him and photographs of Ganja were forwarded between them. There are also transactions between Ganesh Mali and Rahul. 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 person 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.39 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