

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 368 OF 2015**

Ayub Yusuf Sayyad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Pawan Mali with Ms. Jayashri i/b Mr. Ravindra Bajirao Mungekar for
the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

TUESDAY, 21ST APRIL, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P
for the State.

2. By this application, the applicant seeks his enlargement on bail
in connection with C.R No. 313 of 2014 registered with Shahu Nagar
Police Station for the alleged offence punishable under Section 328 of the
Indian Penal Code.

3. The complainant is one Haseenabi Dulgaj. She has alleged in her complaint dated 18th December, 2014 that her husband Rakesh was addicted to liquor and that for last couple of months, the applicant was coming to their locality and supplying/providing a white crystal powder (MD) to her husband and that the said fact was disclosed to her, by her husband. She has alleged that on 18th December, 2014 at about 4:00 p.m. when her husband stepped out of the house, she anticipated that he had gone to consume the said powder and accordingly, informed the police, pursuant to which, the present applicant was arrested. There is a recovery of two packets of white crystal powder from the pant pocket of the applicant i.e. 2.5 gms. According to the complainant, due to the administration of the said white crystal powder, he had endangered the life of the applicant.

4. Learned A.P.P opposed the bail application. He does not dispute the fact that the alleged drug (MD) which was found, was not a narcotic substance under the NDPS Act, at the time of the offence and has been subsequently added as a narcotic drug in the NDPS Act.

5. Perused the charge-sheet. There is no adverse material. *Prima facie*, it is also doubtful whether the act of the applicant would constitute an offence under Section 328 of the IPC, on the basis of the material collected by the prosecution.

6. Learned A.P.P submits that the applicant has two antecedents, inasmuch as, two cases have been registered against him in the year 2009 and 2012 with the Shahu Nagar Police Station. In one C.R, the offence alleged is 379 and in other C.R, the offence alleged is 344 etc. of the IPC.

7. Be that as it may, considering the material on record in the present case, the applicant is entitled to be released on bail, on the following conditions:

ORDER

(i) The applicant Ayub Yusuf Sayyad be released on bail in connection with C.R No. 313 of 2014 registered with Shahu Nagar Police Station, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Shahu Nagar Police Station once in a month on the first Saturday of every month between 11:00 a.m. to 1:00 p.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to contact the complainant, her husband or any witness concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Shahu Nagar Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's

bail.

8. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.