

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 485 OF 2015**

Rinku Munna Khan & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Rohan Nahar for the Applicants

Ms. S. S. Kaushik, A.P.P for the Respondent-State

API Mr. Ajay Waghmare from Pimpri Police Station is present

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 9TH APRIL, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P for the respondent-State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R No. 3149 of 2014 registered with Pimpri Police Station, Pune for the alleged offences punishable under Sections 8(c), 21(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. According to the prosecution, pursuant to an information received on 9th January, 2014, a trap was laid by the police. In the trap, accused No. 1 Prasad Suhas Gaikwad and accused No. 2 Sandip Sunil Tombe came to be arrested on the spot, as they were found in possession of the 275 grams of heroin. It is alleged by the prosecution that in the course of the investigation, the names of the present applicants came to be revealed, pursuant to which, the applicant Nos. 1 and 2 came to be arrested on 25th November, 2014 and 26th November, 2014 respectively.

4. According to the prosecution, the accused No. 1 with the help of one Shyamlal Yadav, had deposited an amount of Rs. 49,000/- in the account of the applicant No.1 which was allegedly towards consideration for purchase of the heroin.

5. Learned Counsel for the applicant contended that as far as applicant No. 2 is concerned, there is no material whatsoever to show the complicity of the applicant No. 2 in the alleged crime. As far as applicant No. 1 is concerned, he submitted that the statement of Shyamlal Yadav does

not, in any way, show the complicity of the applicant No.1 that the applicant No. 1 had the requisite knowledge that the amount so deposited, was towards consideration for purchase of heroin.

6. Learned A.P.P fairly states that as far as applicant No.2 is concerned, there is no material on record to show his complicity. But as far as applicant No.1 is concerned, she relies on the statement of the mother of the accused No.1, wherein, she has stated that she had sold her jewellery and given a sum of Rs. 49,000/- to her son. According to the learned A.P.P, the said amount of Rs. 49,000/- was used by the accused No. 1 for purchase of heroin from the applicant No.1.

7. Perused the charge-sheet. As far as the applicant No. 2 is concerned, there seems to be no material to show his complicity. As far as applicant No. 1 is concerned, there is nothing on record, *prima facie*, to show that the amount of Rs. 49,000/- which was deposited in his account, was towards purchase of heroin. It also appears, that as far as original accused Nos. 1 and 2 are concerned, both have been enlarged on bail for non-compliance of Section 50 of the NDPS Act. The only apprehension of

the learned A.P.P is that the applicants, being residents of Rajasthan will not be available for trial. The said apprehension can be taken care of by imposing stringent conditions. Considering the material on record, the applicants are enlarged on bail on the following terms and conditions:

ORDER

- (i) The applicants be released on bail in connection with C.R No. 3149 of 2014 registered with Pimpri Police Station, Pune, on executing PR Bond in the sum of Rs. 25,000/- each, with one or two solvent sureties in the like amount;
- (ii) The applicants shall inform their latest place of residence and mobile contact numbers 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 Pimpri Police Station, Pune;
- (v) The applicants to cooperate in the conduct of the trial;
- (vi) In case of two consecutive defaults or 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.