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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.3177 OF 2018

Mohammed Siddhiqui Gulam Hajrat Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.B.A.Shaikh, for the Applicant.

Mr.A.A.Palkar, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 14th AUGUST, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No. 17 of 2018 registered with the Anti Narcotic Cell, Ghatkopar Unit, Mumbai, for the alleged offences punishable under Sections 8(c), 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act. ('N.D.P.S. Act').
3. Learned Counsel for the applicant submits that the applicant, a

driver, had no knowledge that what he was carrying in his vehicle was not medicine but was drugs. He submits that the applicant cannot be attributed with the knowledge, being an illiterate person.

4. Learned APP submitted that in the specific information that was received by Police Inspector - Shelke, the name of the applicant was also disclosed along with the names of Rafiq and co-accused – Hajratali Khan.

5. Perused the papers. The applicant is a taxi driver in whose vehicle Codeine bottles worth around Rs.3 lakhs odd were found. According to the prosecution, Codeine bottles were transported by the co-accused – Yasin in a luxury bus from Jalgaon to Mumbai for being delivered to Co-accused – Rafiq. Hajjuddin Latif Shaikh, the bus driver, in which, the parcels containing the Codeine bottles were transported has in his statement stated that on 18th March, 2018, Yasin (co-accused) had told him that he would be sending a parcel containing medicines to Mumbai for being delivered to Rafiq. He has stated that accordingly Yasin brought 9 bags and loaded the same in his luxury bus and paid an amount of

Rs.1,800/- as commission. He has stated that he was told that the bottles were to be delivered to Rafiq and accordingly was given the mobile number of Rafiq. He has stated that the bags were delivered to Rafiq on 19th March, 2018 near Ghatkopar Depot. He has stated that he later learned that the said Codeine bottles were used as drugs. As far as the applicant is concerned, he was driving a taxi, from which the Codeine bottles were seized. *Prima facie*, in the facts, it is doubtful whether the applicant had knowledge, that what he was carrying in his vehicle was drugs and not medicines. No statement under Section 67 is recorded in the present case. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the applicant is enlarged on bail, in the peculiar facts of this case, on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or more local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the

conclusion of the trial;

iii) 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 trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant 's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein 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. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.