

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 224 OF 2021**

Javeriya Khalil Momin	.. Applicant
Vs.	
The State Of Maharashtra	.. Respondent

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Mr. Ali Bubere, Advocate for Applicant.
Mr. S. S. Pednekar, A.P.P. for the State-Respondent.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 12th FEBRUARY, 2021**

PC.

1. The Applicant is apprehending arrest in connection with C.R. No.268 of 2019 registered with Bhiwandi City Police Station. The First Information Report was lodged on 13th May 2019 for offences punishable under Section 328, 273, 276, 411, 188 read with Section 34 of Indian Penal Code (for short "IPC") and Section 18 (c), 27(b)(2), 27(d) of Drugs and Cosmetics Act, 1940 and Section 3/25, 4/25, 7/25 of Arms Act read with Section 77 and 78 of Juvenile Justice Act read with Section 8, 22 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS").

2. The case of the prosecution is that on 13th May 2019, information was received that person name Khalil Sardar was selling

drugs at Mangal Bazar and hence the raiding party visited the house of Khalil Sardar. Search was conducted. They recovered arms, knives, narcotic drugs, controlled substance, Guthka and Money in Indian currency.

3. The applicant preferred application for anticipatory bail before the Session Court which has been rejected by order dated 24th June 2019.

4. Learned advocate for the applicant submitted that the entire family has been implicated in this case. The allegations against the applicant are false. The applicant is a lady aged about 68 years. She is suffering from various ailments. The investigation is already conducted and nothing is to be recovered at the instance of the applicant. The name of the applicant was not mentioned in the FIR. There is no material against the applicant to connect her with the offences. Accused No.6 was granted bail by order dated 8th January 2020. He was in possession of six packets of ALKO-1 Alprazolam Tablets. Accused No.8 Samir @ Firoz Shaikh has been granted bail by this Court. He was found in possession of 13 pockets of ALKO-1 Alprazolam Tablets. Sections 18 (c), 27(b) (2) and Section 27 (d) cannot attributed to the applicant. Nothing is recovered at

the instance of the applicant. The applicant is not connected with the offences under Sections 77 and 78 of Juvenile Justice Act. The applicant cannot be prosecuted for the offences under the NDPS Act.

5. Learned APP submitted that the involvement of the applicant was disclosed during the interrogation of the co-accused. The investigation revealed the involvement of the applicant in the offences. Custodial interrogation of the applicant is necessary.

6. The prosecution is relying on the statement of Moin Abdul Vahid Shaikh which was recorded under Section 164 of Cr.P.C. He has stated that he was working with Khalil Sardar. On 1st May 2019 son of Khalil Sardar handed over five packets of tablets to him. There were 10 tablets in each packet. The said packets handed over to him for selling them in the hotel. On 13th May 2019, the police visited the hotel with some persons who were in their custody. They inquired with him whether he had sold any tablets. He admitted that he sold tablets on two to three occasions. He was informed that the tablets were narcotic drugs. He further stated that once at about 12 O'clock in the night one person had purchased 10 tablets from him. He, vaguely stated that ladies from the house of Khalil Sardar are also selling tablets in the Galli situated

behind their house. It is pertinent to note that there is no direct evidence against the applicant. There is no recovery from the possession of the applicant. The person from whose possession the tablets were recovered were granted bail. Vajid Ali Padiyar was granted bail by the Sessions Court vide order dated 8th January 2020. According to the prosecution the said accused was found in possession of tablets. While granting bail the Court had observed that allegations against the said accused were that he was found in possession of ALKO-1 Alprazolam Tablets but there is no reference of drawing any sample from it and forwarding the same to Chemical Analyzer. Thus, there cannot be any Chemical Analysis Report in respect of those tablets. The quantity recovered from him was of 1 mg. This Court had granted bail to Samir @ Firoz Shaikh vide order dated 18th September 2020 passed by in Bail Application (st.) No. 1945 of 2020. While granting bail this Court had observed that Alprazolam tablets weighing 0.13 gms. was found in his possession. The commercial quantity for the said tablets as stipulated in the NDPS Act is 100 grams. He was found in possession of 5 grams of Alprazolam tablets. The applicant is a lady aged about 68 years. Considering the factual aspects, she need not be subjected to custodial interrogation. Hence, the following order: -

ORDER

- (i) Anticipatory Bail Application No.224 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in connection with C.R. No.268 of 2019 registered with Bhiwandi City Police Station, the applicant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station as and when called for;
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)