

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

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ANTICIPATORY BAIL APPLICATION NO. 1221 OF 2021

Sahil Sanjay Shah .. Applicant
Vs.
The State of Maharashtra .. Respondent

Mr. P. S. Malhi a/w. Mr. Amandeep Singh for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent-State.
Mr. Sreeram Shirsat, PP for the Respondent-NCB.

CORAM : PRAKASH D. NAIK, J.
DATE : 11th JUNE, 2021.

P. C. :

1. This is an application for anticipatory bail in C. R. No. 37 of 2021 registered with NCB, Mumbai Zone for the offences under Sections 8(c), 27, 27(A), 28 and 29 of the Narcotic Drugs Psychotropic Substances Act, 1985.

2. The case of the prosecution is that on 12.04.2021 on the basis of specific information the NCB intercepted accused No.1 Ganesh Shere and accused No.2 Sidharth Amin near Shop No.2, Sudarshan CHS, GB Ambedkar Road, Parel village, Mumbai and during the search 310 grams of Marijuana and Rs.1,50,000/- were seized. Investigation proceeded. The prosecution alleged that the Applicant was supplier of contraband drugs.

3. Apprehending arrest the Applicant had preferred anticipatory bail application before the Sessions Court. The said application was rejected vide order dated 23.04.2021.

4. Learned Advocate for the Applicant submits that there is no cogent evidence against the Applicant showing his involvement in the crime. The applicant has no history of being involved in any crime. The contraband which was allegedly recovered from the co-accused was of small quantity. They were arrested and granted bail. The NCB had never issued any summons to the Applicant. It is only after the Applicant had preferred application for anticipatory bail belatedly the summons was issued. Section 27 of the NDPS Act is not attracted. There was no direct evidence to substantiate the involvement of the Applicant in the crime. The prosecution has relied upon whatsapp chat. They do not establish involvement of the Applicant. It is only the inference which is drawn by the Respondent which is not supported by any evidence. The Applicant had never received any summons in any other case being investigated by the Respondent.

5. Mr. Shirsat, learned Counsel appearing for the Respondent-NCB submitted that there is strong evidence against the Applicant to show his complicity in the crime. The whatsapp message collected by the Investigating Agency shows the involvement of the Applicant in the present case as well as his involvement in drug trafficking in the past. His involvement is also disclosed in C. R. No. 8/21 and 16/21 which are relating to the offences under NDPS. The Applicant is not available and he is avoiding arrest. The investigation show the involvement of the applicant as supplier of the contraband in the present case.

6. The Respondents have also filed affidavit-in-reply to oppose

this application for anticipatory bail. I have perused the document pointed out by the learned counsel for the Respondents in the nature of the statements of the witnesses documents relating to the investigation of the present case. The whatsapp message, statement of arrested accused and the investigation conducted by the Respondents reveal the complicity of the Applicant in the crime. This is not a fit case to exercise the powers under Section 438 of the Code of Criminal Procedure to grant anticipatory bail to the Applicant. Hence, no case is made out to grant relief in the Application. The application stands rejected.

[PRAKASH D. NAIK, J.]