

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 705 OF 2022

Taufeeq Rafeeq Farooqui

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. J.V. Deshpande, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 21st JULY, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 27 of 2022 registered with Osmanpura Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 of the Indian Penal Code and under Section 22(b) of the Narcotic Drugs and Psychotropic Substance Act, 1985 ('N.D.P.S. Act').

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by a Police Head Constable attached with Osmanpura Police Station. In short, the case of the prosecution is that

the informant received a tip off that one person was in possession of narcotic drugs. It was, therefore, decided to lay a trap. Presence of two persons was secured to act as panch witnesses. The applicant was overpowered at the ground near Pratap Nagar. On search of his person, following tablets and syrup were found :

Sr.No.	Particular	Quantity	Amount (Rs.)
1.	Codistar-Dx Cough Syrup 60 ml	5	292.25/-
2.	Alprazolam Tablets IP 0.5 mg (Restyl 0.5 mg)	300	1,039.02/-
3.	Lorazepam Tablets IP 1 mg (Ativan 1 mg)	540	1,230.48/-
4.	Ultracat	30	478.00/-

The same came to be seized under the panchanama. The applicant did not have either medical prescription or the bill of purchase of those medicines. The F.I.R., therefore, came to be lodged against him. On investigation, charge-sheet has been filed.

4. Learned counsel for the applicant would submit that the applicant was serving as a salesman with a pharmacist – Anil Agency. The medicines found with him were to be supplied to Kamal Medical. Learned counsel would further submit that even if we accept the case of the prosecution as it is, it is not a case of commercial quantity. He, therefore, urged for grant of bail.

5. Learned A.P.P would, on the other hand, submit that it is an offence under the N.D.P.S. Act. The applicant does not deserve grant of bail in view of rigor of Section 37 of the N.D.P.S Act.

6. Considered the submissions advanced. Admittedly, the applicant was serving as a salesman with a pharmacist. Whatever found in possession of the applicant are medicinal drugs. According to him, the same were being supplied pursuant to the order placed by Kamal Medical. It is true that during investigation, it was found that the concerned has denied to have had placed any order for those drugs. Learned counsel for the applicant, however submitted that the order can be placed on telephone as well. From the house of the applicant a bill/voucher dated 01st February, 2022 came to be seized. It is not the case of the prosecution that the applicant was selling the drugs unauthorisedly to any customer as a narcotic drugs. It is reiterated that whatever found in possession of the applicant are in fact medicinal drugs. The applicant was serving with a pharmacist. A bill/voucher pertaining to the seized medicinal drugs came to be seized from his residence. He was not actually selling the medicines unauthorisedly to anyone. The investigation of the crime was over. The charge-sheet has been filed.

7. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 27 of 2022 registered with Osmanpura Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 of the Indian Penal Code and under Section 22(b) of the Narcotic Drugs and Psychotropic Substance Act, 1985, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD