

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

BAIL APPLICATION NO. 1028 OF 2022

Shivprasad Suresh Changhate

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. A.K. Bhosle, Advocate for applicant

Mr. S.P. Sonpawale, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT, J.

DATE : 19th AUGUST, 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. 194 of 2022 registered with Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 read with Section 34 of the Indian Penal Code, under Sections 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('N.D.P.S.') and under Sections 18A, 18C, 27(B)(II) of the Drugs and Cosmetic Act, 1940.

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

3. The F.I.R. has been lodged by the Drug Inspector, Food and Drugs Administration, Maharashtra State, Aurangabad on 18th June, 2022. The police officials had told the informant to have had received a secret information that a person by name Tarasing Tak (co-accused) was selling narcotic tablets at Waluj. It was also learnt that the proprietor of Shiva Medical would supply such tablets for sale. A trap was, therefore, laid. Co-accused – Tarasing Tak was arrested. Some tablets viz. ALPRACAN 0.5 (Alprazolam Tablets IP 0.5 mg) were seized from him. He told to have bought those tablets from the applicant. A search of the medical store (Shiva Medical) of the applicant was, therefore, made to find 75 tablets viz. ALPRACAN 0.5 (Alprazolam Tablets IP 0.5 mg) of 0.5 gms. each kept in a bag. On enquiry with the applicant, it was revealed that those were bought from one Mahesh Unawane. Mahesh too, therefore, came to be arrested.

4. In short, case of the prosecution is that the applicant was found to have stored 75 tablets of ALPRACAN 0.5 (Alprazolam Tablets IP 0.5) of 0.5 gms. each at his medical store. The applicant failed to explain wherefrom those tablets were obtained.

5. Learned counsel for the applicant would submit that the applicant is a proprietor of a medical shop. The tablets were found kept in a bag in his medical store. The applicant has been behind the bars for little

over two months. Investigation is almost complete. He, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, submit that it is an offence under the N.D.P.S. Act. Investigation is still underway. It is to be ascertained as to where those tablets were manufactured and where duly introduced in the market. He, therefore, urged for rejection of the application.

7. Considered the submissions advanced. The applicant is a proprietor of a medical shop viz. Shiv Medical. Total 75 ALPRACAN 0.5 (Alprazolam Tablets IP 0.5) of 0.5 gms. each were recovered from the shop of the applicant. Total quantity of the tablets comes to 35 gms. The same is said to have been less than the commercial quantity. Rigor of Section 37 of the N.D.P.S. Act is, therefore, not applicable. The applicant is in jail for little over two months. In the facts and circumstances of the case, the Court is inclined to grant the bail.

8. 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. 194 of 2022 registered with Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 read with Section 34 of the Indian Penal Code, under Sections 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and under Sections 18A, 18C, 27(B)(II) of the Drugs and Cosmetic Act, 1940, 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