

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

BAIL APPLICATION NO. 1398 OF 2022

Shaikh Naser Shaikh Jamal

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

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Mr. R.S. Deshmukh, Senior Advocate a/w Mr. V.A. Chavan, Advocate i/b Mr. D.R. Deshmukh, Advocate for applicant

Mr. A.V. Deshmukh, A.P.P. for respondent - State

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CORAM : R.G. AVACHAT, J.

DATE : 06th OCTOBER, 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. 142 of 2022 registered with Harsul Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 of the Indian Penal Code, under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('N.D.P.S. Act') and under Sections 18-A, 18(c), 28, 27(b)(ii) of the Drugs and Cosmetics 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 a Head Constable of Harsul Police Station, Aurangabad. It is a case that the applicant was found in possession of 120 tablets of Alprsafe 05 (Alprazolam Tablets IP) (0.5 mg each).

4. Learned A.P.P. would submit that it is a narcotic drug. Offence under the Drugs and Cosmetics Act has also been invoked. He, therefore, urged for rejection of the application.

5. The maximum punishment provided for offence punishable under Section 22(b) of the N.D.P.S. Act is imprisonment for a term which may extend to ten years. The applicant has been arrested on 30th July, 2022. For over two months have been passed since his arrest. Since the applicant was not found in possession of the drugs of commercial quantity, rigours of Section 37 of the N.D.P.S. Act is not applicable. The applicant has no criminal antecedents. In the facts and circumstances of the case, pre-trial detention of the applicant appears to be unwarranted. The Court is, therefore, inclined to grant the applicant bail.

6. 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 on bail, in connection with Crime No. 142 of 2022 registered with Harsul Police Station, Dist. Aurangabad for the offences punishable under Sections 328 and 276 of the Indian Penal Code, under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and under Sections 18-A, 18(c), 28, 27(b)(ii) of the Drugs and Cosmetics 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