

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

BAIL APPLICATION NO.1447 OF 2022

Mahesh s/o. Sonyabapu Unwane	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Ms.Pooja Langhe, Advocate h/f. Mr.V.R.Langhe, Advocate for applicant
Mr.R.B.Bagul, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 28, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0194 of 2022 registered with Waluj Police Station, Dist.Aurangabad, for the offences punishable under Sections 328 and 276 read with Section 34 of Indian Penal Code; Section 22(B) of the Narcotic Drugs And Psychotropic Substances, Act, 1985 and Section 18-A, 18-C, 27(B)(II) of the Drugs and Cosmetics Act, 1940.

2. Heard learned counsel appearing for the parties.
3. The applicant is alleged to have been found in possession of ALPRACAN 0.5 (Alprazolam IP 0.5 mg.) tablets, a Scheduled H1 drug. He is also alleged to have supplied such tablets to the co-accused for onward sale.

4. According to learned APP, total quantity of such tablets supplied by the applicant is more than the commercial one. He would submit that the applicant was also found in possession of some M.T.P. tablets and the tablets on infertility. He would submit that those drugs were found to be furious. The report to that effect is given by Cipla company. He would further submit that Section 328 of Indian Penal Code has also been invoked. Learned APP meant to say that there is strong material against the applicant to indicate his involvement in the offence in question. He, therefore, urged for rejection of the application.

5. The applicant is in jail for little over four months. On investigation, charge sheet has been filed. Total 1725 ALPRACAN 0.5 (Alprazolam IP 0.5 mg.) tablets were seized from him. The total weight thereof is less than the commercial quantity. Rigors of Section 37 of N.D.P.S. Act does not apply.

6. Learned counsel for the applicant has placed on record the Identity Card of the applicant to indicate that he has been serving with one Pharmacist. Rest of the material against the applicant is in the nature of statement of the co-accused. Since contraband articles found in actual possession of the applicant was

below commercial quantity and on investigation, charge sheet has been filed, the Court is inclined to grant the applicant bail.

7. Hence, the following order:-

- (i) The application is allowed.
- (ii) The applicant be released in connection with Crime No.0194 of 2022 registered with Waluj Police Station, Dist.Aurangabad, for the offences punishable under Sections 328 and 276 read with Section 34 of Indian Penal Code; Section 22(B) of the Narcotic Drugs And Psychotropic Substances, Act, 1985 and Section 18-A, 18-C, 27(B)(II) of the Drugs and Cosmetics Act, 1940, on executing P.R. Bond in the sum of Rs,1,00,000/- (Rupees One Lakh) with one surety in the like amount.
- (iii) The applicant shall attend Waluj Police Station, Dist. Aurangabad, on every Sunday between 10.00 a.m. and 12.00 noon., for one year

8. It is informed that some other crimes have also been registered against the applicant. Needless to mention that the applications for anticipatory bail, if any, moved by the applicant would be decided on their own merits uninfluenced by this order.

[R.G. AVACHAT, J.]

KBP