

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1503 OF 2021

PAPPU SHABAN ANSARI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Mrs. A.N. Ansari, Advocate for applicants

Mr. V.M. Kagne, APP for the respondent

...

WITH

BAIL APPLICATION NO.1609 OF 2021

SHAIKH MOHSIN AHMED KABEERUDDIN
VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.N. Jain, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 21st DECEMBER, 2021

PRONOUNCED ON : 05th JANUARY, 2022.

ORDER :

Procedure, 1973, by the accused persons, who have been arrested in connection with Crime No.257/2021 dated 28.10.2021 registered with Azadnagar Police Station, Dist. Dhule, for the offence punishable under Section 20, 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and under Section 276 and 328 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mrs. A.N. Ansari for the applicants in Bail Application No.1503 of 2021, learned Advocate Mr. R.N. Jain for the applicant in Bail Application No.1609 of 2021 and learned APP Mr. V.M. Kagne for the respondent in both applications.

3 The learned Advocate appearing for applicants in Bail Application No.1503 of 2021 vehemently submitted that the investigation is almost complete and the physical custody of the applicants is no longer required. The case of the applicants is not covered under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, as Section 22 of the N.D.P.S. Act provides punishment for the licence holders only. Further, by no stretch of imagination it could be said that the applicants have committed offence under Section 276 and 328 of the Indian Penal Code, as the basic ingredients of both the offences are absent. It is the prosecution story that the secret information was received and thereupon raid has been conducted,

whereupon from 9 plastic small bags ganja weighing 26 grams worth Rs.900/- was found which is of small quantity, in view of the Schedule to the Narcotic Drugs and Psychotropic Substances Act. Further, it has been stated that many small tablets were found, of which the description has been given. It is stated that those tablets are narcotic drugs described in Schedule H1 of the Act. The witnesses involved are the police officers, therefore, there is no question of tampering. The applicants are ready to abide by the terms of the bail.

4 The learned Advocate appearing for applicant in Bail Application No.1609 of 2021 submitted that the name of the applicant is not appearing in the First Information Report. He was not even present when the alleged raid was conducted. It is the prosecution story that the name of the present applicant was disclosed by the co-accused, in whose house the raid was conducted and thereupon the present applicant came to be arrested from Surat in Gujrat State. Nothing was seized from him from Surat. Now, when the evidence is collected, physical custody of the applicant is not required.

5 Learned APP objecting to the applications submitted that the applicants in Bail Application No.1503 of 2021 were caught red handed with the prohibited drugs and thereafter they had disclosed the name of the

applicant in Bail Application No.1609 of 2021. They had purchased the tablets from this applicant. If we consider the quantity, that has been seized, then, it is definitely commercial quantity. The young generation is spoiled because of the addiction to such kind of drugs. Therefore, repetition of such offences by the applicants after they are released on bail cannot be ruled out.

6 At the outset, it can be seen from the police papers that the investigation is still incomplete. The applicants in Bail Application No.1503 of 2021 were found possessing 26 grams ganja and total tablets of 36816. Those tablets are, EF 21 **Alpracan** 0.5 (NRX Alprazolam Tablets LP 0.5 mg.) TL B. No.CBT00229A/21, **Alpracan** 0.5 (NRX Alprazolam Tablets OP 0.5 Mg) strips, **Anzilum** 0.5 (NRX Alprazolam Tablets L.P. 0.5 Mg) cut strips and **Anzilum** 0.5 (NRX Alprazolam Tablets L.P. 0.5 Mg) cut strips. We cannot take into consideration the weight of single tablet. We will have to consider the total weight of the tablets, which will definitely give a picture that what has been recovered is the commercial quantity. It will not be out of place to mention here that the learned Special Judge while rejecting the applications by applicant in Bail Application No.1609 of 2021 has relied on various decisions by Hon'ble Supreme Court. Definitely, those citations are required to be considered here also. When huge number of contraband drugs have been seized, then, the Courts would be slow in exercising their discretion in

favour of such accused persons, from whose custody the narcotic drugs or psychotropic substance has been seized. The police papers would show that substantial compliance of the necessary requirements has been made. This Court does not agree with the submissions that the case is not covered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act or Section 276 and 328 of the Indian Penal Code, at this stage.

7 As regards the applicant in Bail Application No.1609 of 2021 is concerned, no doubt, his name appears to be revealed from the mobile chat between the co-accused and himself. Copy of the screenshots of those conversation is taken, which includes the photographs of the contraband drug tablets. Therefore, we cannot say that only on the disclosure of statement name of the applicant in Bail Application No.1609 of 2021 has been revealed. Definitely, it has base in the form of WhatsApp chat. According to the prosecution, he is the supplier of the drugs. Addiction to such drug ruin people, especially the young generation and if the drug peddlers or suppliers are allowed to be released on bail, then, that would definitely affect the society at large and, therefore, case is not made out to release the applicants on bail. Applications, therefore, stand rejected.

(Smt. Vibha Kankanwadi, J.)