

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.357 OF 2022

Tanveer Aziz Memon	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Dilip Mishra i/b. Mr. Ayaz Khan for the Applicant.
Ms Sharmila S. Kaushik, APP for Respondent-State.
Mr. D.B. Phalke, PSI present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 16th MARCH, 2022.

P.C.:-

1. By this application filed under Section 438 of the Cr.P.C., the Applicant has sought pre-arrest bail apprehending his arrest in Crime No.55 of 2021 registered with Anti Narcotic Cell, Bandra Unit for offences punishable under Sections 8(c) r/w. 21(c), 22(c), 27(a) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Heard Mr. Dilip Mishra , learned counsel for the Applicant and Ms Sharmila Kaushik, learned APP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The records indicate that on 30/06/2021 while Mr. Chavan, PI incharge of Anti Narcotic Cell was on patrolling duty along with his staff, he noticed two persons standing suspiciously near Goregaon Bus Depot. Both the persons were apprehended. Their personal search was taken in presence of panchas. A bag containing 1 kg 80 gm of Heroine and another bag containing 1 kg 100 gm MD was recovered from accused No.1 Sanjib Sarkar whereas from accused No.2- Salim Khan a bag of 150gm MD was recovered. It is stated that in the course of the investigation accused No.1 Sanjib Sarkar disclosed that he had purchased the said contraband from the Applicant herein.

4. The material on record prima facie indicates that the statement of the co-accused is the only material as against this Applicant. On 09/03/2022 this Court (Coram: Smt. Bharti Dangre, J.) had directed the learned APP to place on record chart of call data record to indicate whether the Applicant was in touch with accused No.2. Learned APP states that the CDR shows that several calls were made to accused No.2 from Mobile No.9833421591. She states that said phone was not in the name of the Applicant. There is nothing on record to prima facie indicate that the Applicant had used the said phone to make calls to accused No.2.

The Applicant cannot be declined bail solely on the basis of the statement of accused No.2 when the investigating agency has failed to ascertain authenticity of the statement and investigate into the role of the Applicant in the aforesaid crime. Considering the nature of allegations and the material in support of allegations, in my considered view this is not a case which would warrant custodial interrogation. The Applicant is a permanent resident of Vasai and there are no chances of the Applicant absconding or thwarting the course of justice.

5. Under the circumstances, the application is allowed on following terms and conditions:-

(i) In the event of arrest of the Applicant in Crime No.55 of 2021 registered with Anti Narcotic Cell, Bandra Unit, he shall be released on bill on furnishing bail bonds of Rs.50,000/- with one or two solvent sureties in the like amount.

(ii) The Applicant shall report to the investigating officer for a period of four days from 21st March, 2022 between 10.00 a.m. to 1.00 p.m. and thereafter as and when directed by the investigating officer.

(iii) The Applicant shall furnish his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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