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

CRIMINAL BAIL APPLICATION NO. 2285 OF 2022

NIKOLAS RATNA PANDI NADAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Ms. Anjali Awasthi, Adv. for the applicant.
Mr. S. V. Gavand, APP for the Respondent-State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 15, 2022.

P.C. :

1. Heard learned Counsel for the applicant.
2. This is an application for bail in respect of the offences punishable under Sections 109, 114, 182, 193, 195, 201 & 120(B) of the Indian Penal Code, 1860 and under Sections 8(c), 22 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act" for short) and under Sections 3 & 5 of Arms Act and under Sections 37(1) & 135 of Mumbai Police Act. The offence was registered on 27/11/2021 in relation to FIR No. 184 of 2021 at Shahu Nagar Police Station, Mumbai, which is renumbered as C. R. No. 93 of 2021 registered by DCB-CID, Unit-V.

3. It is the case of prosecution that the applicant was arrested on 08/12/2021. It is further case of the prosecution that the applicant planted 485 grams of controlled substance called "ephedrine", one country made pistol and one live cartridge in the house of Ali Fakruddin Sayed and Gopal alias Gopi Arunachal Mupnar. The reasons for planting the said controlled substance, according to the learned APP for the State, can be seen from the statement of a witness (enclosed at page 210 of the paper-book). It seems the applicant had proposed this witness for a relationship which she flatly refused. The applicant did not like the relationship which this witness shared with Ali Sayed, and therefore, to teach him a lesson, the controlled substance was planted by the applicant in the house of Ali Sayed.

4. The raid that was conducted, originally the investigation proceeded on the allegations that Ali Sayed and Gopal are the main suspects. When the raid was conducted, the police found the substance called as MD (Mephedrone), which is a narcotic drug. However, the CA

report reveals that the said substance is ephedrine, a controlled substance.

5. It is alleged that the informant (Naeem Qureshi) had falsely implicated Ali Sayed and Gopal. The investigation reveals that the informant had in fact planted those substances at the instance of present applicant. The location of Ali Sayed, Gopal and the present applicant was found at the same place. On the basis of these allegations, the applicant came to be arrested.

6. Learned Counsel for the applicant submits that these allegations are false. She submits that on the basis of false allegations the applicant has been arrested.

7. The controlled substance has not been found in the possession of applicant. In support of her contentions, the learned Counsel for applicant has relied upon the decision of this Court in the case of **Noor Mohammed Shaikh v/s. The NCB and Anr.** reported in **Criminal Bail Application No. 1951 of 2011 decided on 17th January, 2012.**

8. The CA report reveals that substance is a controlled substance as per the Narcotic Drugs and Psychotropic

Substances (Regulation of Controlled Substances) Order, 2013. Section 9-A of the NDPS Act provides for "*Power to control and regulate controlled substances*". The punishment for contravention of orders made under Section 9-A is provided under Section 25-A of the NDPS Act.

"If any person contravenes an order made under Section 9-A, he shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees."

9. It is thus seen that the rigors of Section 37 of the NDPS Act are not applicable to the offences relevant to contraventions of the order made under Section 9-A of the NDPS Act.

10. The informant in the present case had initially given information that the controlled substance and the country made pistol are in the house of Ali Sayed and Gopal. Later on, he revealed that the said substance and country made pistol was planted in the house of Ali Sayed and Gopal, as per the instructions of the applicant. The statement of witness at page 210 of the paper-book reveals that she had an affair with Ali Sayed, which was not liked by the

applicant and therefore, he had threatened to teach Ali Sayyed a lesson. Nothing was found from the possession of applicant. Even the substance is a controlled substance. The rigors of Section 37 of the NDPS Act are not attracted in the present case. The applicant is in custody for more than one year. No criminal antecedents are reported against the applicant. The trial is not likely to conclude soon. The applicant's family is residing in Mahim. The applicant has roots in the society. There does not appear to be the possibility of applicant absconding. The applicant therefore deserves to be released on bail. In the result, the following order is passed :-

ORDER

- (a) Criminal Bail Application No. 2285 of 2022 is allowed.
- (b) The applicant-NIKOLAS RATNA PANDI NADAR shall be released on bail in connection with FIR No. 184 of 2021 registered with Shahu Nagar Police Station and re-numbered as C. R. No. 93 of 2021 at DCB-CID, Unit-V on his furnishing P.R. Bond of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or more sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(e) The applicant shall reside outside the jurisdiction of Greater Mumbai till trial is over. The applicant is allowed to enter in the jurisdiction of Greater Mumbai for the wedding of his sister from 22/12/2022 to 02/01/2023. It is made clear that he shall not try to establish any contact with any of the witnesses including the witness whose statement is recorded at page 210 of the paper-book.

(f) The applicant shall reside in Kalyan and report to the nearby police station every fortnight i.e. on every 1st and 3rd Monday of the month between 10.00 a.m. & 1.00 p.m.

(g) The applicant shall be released on furnishing cash bail of Rs. 25,000/- (Rupees Twenty-five Thousand Only) in lieu of sureties for a period of six (6) weeks from today.

(h) Application is disposed of accordingly.

(M. S. KARNIK, J.)