

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2854 OF 2021

Saida Yusuf Shaikh .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Ayaz Khan for the applicant.
Ms. Rutuja Ambekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 13th JULY, 2022

P.C:-

1 The applicant is charged for the offences punishable under section 8-C, 20, 22, 25, 27 (a) of the NDPS Act. She came to be arrested on 17/10/2020 and her bail application was rejected by the Sessions Court, which constrained her to file the present application.

2 The case of the prosecution is, that on the basis of the information received, raid was organised in Ratna Apartment, Bombay colony, Mumbra. It is alleged that the accused no.1 was present at the spot, but on noticing raiding team he fled away from the window.

 The search of the premises resulted in recovery of 1100 grams of Ganja and 51 bottles of cough syrup and 60 numbers

of ALKO tablets. The applicant was arraigned as accused, since it was alleged that the premises belonged to her and she came to be arrested and, on completion of the investigation, charged for the aforesaid offence.

3 The submission advanced on behalf of the applicant is to the effect that she is not found in possession of the said contraband and, in fact the premises belongs to her daughter and the leave and license agreement compiled in the charge-sheet clearly reflect to an agreement being executed between Smt. Jayba Yusuf Shaikh and Vishwajeet Dutta in respect of Flat No. 401 in Ratna Niwas, Bombay colony. The agreement executed in the year 2020, definitely indicates that the applicant was not the lessee nor any investigation led the prosecution to the said conclusion.

4 It is also sought to be canvassed that from the material compiled in the charge-sheet to establish the charge under section 27 A, which relates to financing of any drug activity, the only material, which connects the applicant to the CR, is her ID card and one Cheque book of DCB Bank, which was seized under panchnama from the premises, where the raid was conducted, for which, the applicant has an explanation to offer that the premises were not leased out to her and the presence of the two documents in the said premises, is on the basis of her relationship with the person, who was occupying the said premise.

Apart from the aforesaid material, there is no evidence of financing any Narcotic deal as contemplated under section 27 A and the charge-sheet does not find an iota of evidence to that effect.

5 Learned APP state that the applicant has 3 antecedents and the APP make a reference to the 3 CRs registered against the applicant, where he is accused of offence under NDPS Act in the year 2018, 2019 and 2020 and the cases are pending. Merely because there are antecedents, the applicant cannot be deprived of liberty, as ultimately, she will have to face the trial on the basis of the material compiled in the charge-sheet.

6 The observation made above are limited for the purpose of decision of criminal bail application and the special court shall not be influenced by the aforesaid observations.

7 Hence, the following order.

ORDER

- (a) The Applicant Saida Yusuf Shaikh shall be released on bail in CR No. 779 of 2020 registered with Mumbra Police Station, on executing P.R. bond to the extent of Rs.50,000 and furnishing one or two sureties of the like amount.

- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicant shall attend the trial on regular basis.
- (d) The Applicant shall report to the police station once in every three months.

4 The application is allowed in the above terms.

(SMT. BHARATI DANGRE, J.)