

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3880 OF 2021

Ranjan Shaam Mawar .. Applicant
Versus
The State of Maharashtra .. Respondent

...

Mr. Ashok Mundargi, Sr. Advocate with Ayaz Khan i/b Zehra Charania for the applicant in BA No.3880/21.

Mr.S.H.Yadav, APP for the State.

PSI Shri S.S. Tawade from DCB CID, UNIT-IX present.

CORAM: BHARATI DANGRE, J.

DATED : 11th OCTOBER, 2022

P.C:-

1 Heard learned senior counsel Mr.Mundargi for the applicant and the learned APP Mr.Yadav for the State.

2 The applicant face charges u/s.8C, 22C, 29 of the NDPS Act in the charge-sheet which has been filed on 26/5/2021 in C.R.No. 48/2020 which was registered with Santacruz police station.

The applicant is charged as accused no.5 and seek his release on bail on the ground of absence of any material compiled in the charge-sheet, indicating his involvement in the recovery of the contraband from the other co-accused and the learned senior counsel emphatically submits that barring the connection

between the applicant and the co-accused in form of some phone calls thousand in number and one statement of accused no.4, implicating him as the supplier of contraband in the 27 Memorandum Panchnama, there is no material available against him.

3 The case of the prosecution which can be discerned from the charge-sheet is, that on 9/12/2020, on prior information, a trap was laid which resulted in accused nos.1 and 2 being apprehended. Accused no.1 was found with 38 gms of Mephedrone whereas from accused no.2, 80 gms of Mephedrone came to be seized. The samples were drawn, panchnama was prepared and FIR came to be registered.

On the information of accused nos.1 and 2 in remand, accused no.3 was arrested on 6/1/2022 and a search of his premises, led to recovery of 40 gms of Mephedrone.

This led to arrest of accused no.4 on 30/4/2021 from whose premises situated in Mira Road, 110 gms of Mephedrone was seized on 3/5/2021.

The applicant came to be arrested on 1/5/2021 and on his arrest, two mobile phones with sim cards came to be seized, the details of which are recorded in the arrest and search panchnama dated 1/5/2021.

4 When the charge-sheet is perused, it can be seen that the Memorandum Panchnama executed at the instance of accused

no.4 Ravish Ansari, which led to the recovery of Mephedrone from his house make a reference to the name of the applicant, when the accused no.4 disclose that he is a consumer of Mephedrone and he purchase the same from Ranjan Mawar i.e. the present applicant and he led to the remaining Mephedrone which was unconsumed.

The said statement being a part of Memorandum Panchnama recorded u/s.27, is in any case, not admissible in evidence, and cannot form the basis of the conviction of the applicant.

5 As far as the CDRs and connection of the applicant with accused nos.2 and 4, though the prosecution rely upon 1067 and 252 calls from the two mobiles, mere telephonic conversation or connection in absence of the details of the conversation, by itself cannot be an incriminating circumstance sufficient to convict the applicant.

Since there is no recovery of the contraband from the applicant and the two incriminating circumstances on which the prosecution place reliance, in my opinion, cannot by itself be sufficient ground for me to believe that the applicant is guilty of the offence and in absence of any antecedents attributed to him, I am satisfied that he is not likely to commit any offence while on bail.

I am therefore, persuaded to release him on bail subject to the following stipulation. Hence, the following order :

O R D E R

- (a) The Applicant – Ranjan Shaam Mawar in connection with C.R.No.48/2020 registered with DCB Unit-IX, Mumbai shall be released on bail on furnishing P.R. bond to the extent of Rs.50,000/- with one or more 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 so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The applicant shall attend the concerned police station on first Monday of every month till framing of the charge. The Applicant shall attend the trial on regular basis.
- (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, if there is any change.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)