

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.130 OF 2023

SHAIKH AKBAR SHAIKH RAZZAK
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salunke Sudarshan J
APP for Respondent/State : Mr. S.P. Sonpawale

...
CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 20, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The prosecution has a case that the alleged contraband seized in a tin shed house was in conscious possession of the applicant. The prosecution also has a case that the tin shed was owned by the applicant. However, the applicant has a case that the tin shed was not owned by him nor in his possession. The investigating officer wrote a letter to the concerned municipal council about the ownership of the house where the contraband was seized. The tax assessment report has been supplied by the Chief Officer, Nagar Parishad, Selu. That shows that the house was owned by and in possession of Nasmonnissa Begum Saber Ali. The prosecution has an explanation that she resides at Hyderabad, therefore, the applicant is looking after that tin shed. Except the bare words, the prosecution

has no evidence to show that the owner allowed the applicant to use the said tin shed by any mode or manner.

3. On last date, 12 days time was granted to the prosecution to collect the necessary evidence proving that the applicant was legally in possession of the place where the contraband was seized. The investigating officer did nothing nor collected any evidence atleast showing that the applicant was legally in possession of the tin shed. This is a strong circumstance against the applicant to believe the case of his conscious possession. There appears a material defect in the investigation. Considering the facts and circumstances, the applicant deserve bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Shaikh Akbar Shaikh Razzak, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.105 of 2022, registered with Selu Police Station, District Parbhani for the offence punishable under Section 8(c), 20(b)(ii)(c) and 29 of Narcotic Drugs and Psychotropic Substances, Act, on the conditions that he shall not tamper with the prosecution witnesses and shall not involve in similar crime.

(S.G. MEHARE, J.)