IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.345 OF 2023

IMRAN ASHRAF SORATHIYA
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Somnath G. Ladda
APP for Respondent : Mr. S. P. Deshmukh
...

CORAM : S. G. MEHARE, J.

DATE : 17.03.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P for the respondent/State at length.

2. The applicant has been arraigned as an accused of the offences punishable under Sections 328, 276 read with Section 34 of the Indian Penal Code, Section 22B of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Sections 18(A), 18(C) of the Drugs and Cosmetics Act, in C.R.No.194 of 2022 dated 18.06.2022 registered with Police Station Waluj, District Aurangabad.

3. The prosecution has a case that the applicant was involved in illegal business of supplying medicines without any license used for sex. It were prohibited drugs. It has been alleged against the applicant that he used to send parcel by name Imranbhai at various places and co-accused Naushad used to collect it. Brilliantly, the applicant instead of using his account for many transactions, used bank account of one Hina. The accused was also booked in another crime registered with Rahuri Police Station, District Ahmednagar.

4. The learned counsel for the applicant has vehemently argued that two money transactions without any substantial and corroborative evidence with Hina, is not sufficient to prove the nexus of the applicant with the alleged crime. The applicant has his own bank account, so he has no reason to use the account of Hina. Hina’s statement does not state that the applicant has nexus with the present illegal business. She did not state that she paid money to the applicant or received from the co-accused Naushad. Merely an amount of Rs.20,000/-, Rs.25,0000/- and Rs.30,000/- was shown in her account. The applicant does toys business. The police did not

make enquiry with the husband of Hina, how she has a huge transactions without any business. Reading the evidence collected against the applicant, it is difficult to believe the prosecution case that the applicant has been involved in the alleged crime. Whatsoever transport receipts placed on record were relating to Rahuri crime and not this one. In the facts and circumstances of the case, the N.D.P.S Act did not attract. So far as the other Sections are concerned, it does not provide punishment more than seven years. The applicant's father and himself are suffering from various ailments. The prosecution has no material to show that the applicant may not be available for trial and may abscond. There are no antecedents to his discredit. It has also been argued by the learned counsel for the applicant that the alleged medicines are spurious. Hence, he deserves bail.

5. Per contra, the learned A.P.P. opposed the application. He would refer to the statement of Hina and her bank account shows that co-accused Naushad and the applicant had also Bank transaction with her. She has specifically stated that the applicant did not disclose what business he does. The offence is serious. It is a big racket involved in

illegal business of drugs which was highly affecting the human life. He also referred to statement of the co-accused Naushad, however, it is inadmissible. Reading the evidence as a whole, *prima facie* case made out against the applicant to believe that he has illegal business with accused Naushad and he was involved in the illegal drug business. The applicant has already been booked in another crime. This offence has recently came to the light. Therefore, it cannot be said that the applicant had no antecedents to his discredit. He, therefore, prayed to dismissed the application.

6. Perused the charge sheet. It reveals from the record that the applicant has many transactions with Hina. Her statement is very specific that the applicant asked her to allow him to use her bank account. Naushad was sending money to Hina. The prosecution has also the communication between applicant and co-accused Naushad on telephone and messages. That goes to show that they were well acquainted with each other. The prosecution case is supported with the bank entries. The learned A.P.P. has correctly argued that the offence in which the applicant has

been involved, is harmful to the society. Main accused Dharmesh Kandoriya is still absconding.

7. Reading papers as a whole, the Court is satisfied that the applicant has involvement in such illegal business. The business in which he has involved is harmful to the society. Therefore, the interest of citizens needs to be protected. The offence is serious and grave. Hence, the application stands dismissed.

8. Needless to state that the above observations are restricted to the present bail application.

(S. G. MEHARE)
JUDGE

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