

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

945 BAIL APPLICATION NO.396 OF 2023

NAUSHAD MAHEBUB SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Rahul R. Karpe.
APP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.
DATE : 17.03.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeking bail for the offences punishable under Section 22(B) of the N.D.P.S. Act, Sections 328, 201, 276 read with Section 34 of the IPC and Sections 18(A), 18(C), 27(B)(ii) of the Drugs and Cosmetics Act, 1940.
3. Firstly, the learned counsel for the applicant has voluntarily argued that the similarly situated co-accused have been granted bail. Therefore, he deserves parity. Besides the parity, he argued that the role attributed to the applicant is not clear. Merely having money transactions with some person is not sufficient to prove the nexus of the applicant in the crime.

The quantity allegedly recovered is not commercial. The alleged drugs were not proved substandard. The applicant is languishing in jail since 28.07.2022. Nothing is to be recovered from him. He has roots at village Rahuri. Therefore, there are no chances of absconding. Hence, he may be granted bail.

4. Learned APP would argue that the applicant is the main accused who was supplying the drugs unauthorisedly without bill to the other co-accused, who have been granted bail. The role of the applicant is different from them. The applicant had large number of phone calls with the main accused, who was sending the drugs in question to the present applicant. The applicant runs Rahuri Packers and S. P. Packers on which address he was receiving the consignment of drugs. One lady namely Heena had received huge money from the applicant and through him the money was transferred. The quantity more than 100 gram is commercial. The applicant is repeatedly involved in the crime. The drugs were sold for the illegal abortion and increasing the libido. The drugs were harmful to the society. The offence is serious. In view of Section 36(A)(C) of Drugs and Cosmetics Act, the applicant does not entitle to bail. The offence is grave. Hence, he may not be granted bail.

5. Perused the papers. The prosecution has evidence to show that the applicant was receiving the consignment of the drugs on his transport from Rajkot. There were many money transactions in account of one Heena. There are large number of phone contacts and SMS with the other accused. Various crimes have been registered against the applicant at different places. *Prima facie* the prosecution has evidence to satisfy that the applicant was repeatedly involved in the similar crime. The Court is not satisfied that the applicant is not likely to commit any offence while on bail. Therefore, he does not deserve bail, as he did not fulfill the condition under Section 36(A)(C) of the Drugs and Cosmetics Act. The material against the applicant is sufficient to believe the prosecution case at this juncture. The offence is grave. Hence also, the applicant does not deserve bail.

6. For the above reasons, the application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-