

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

ANTICIPATORY BAIL APPLICATION NO.527 OF 2023

AMIR KARIMSAB SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. S. S. Kazi

APP for Respondents: Mr. G. O. Watamwar

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CORAM : R.M. JOSHI, J

DATE : JUNE 15, 2023

PER COURT :

1. Applicant apprehends arrest in connection with crime bearing F.I.R. No. 31/2023 registered with Shivajinagar Police Station, Latur for the offences punishable under Sections 376, 336, 420, 471 read with Section 34 of the Indian Penal Code.

2. On 04th January, 2023 report came to be given to the police alleging that on large scale Napromine injection 10 ml (Mephentermin Suphate I.P. 30 mg) manufactured by Miraculus Pharma Pvt. Ltd is circulated in the market. Since secret information was received to that effect, raid was conducted on Surya Medical and Distributors, Latur on 09.12.2022. During the said raid, it was found that the said injection was

purchased by M/s Pharmaco and it was sold to various medical stores. It is alleged that by showing bogus address, license number, etc of purchasers bills were found to have been prepared. There was huge amount of breakage shown and such injections were in fact sold through present applicant, on receiving cash. It is revealed that sale was effected through applicant who is medical representative of Triken Co. It is further stated in the report that the said medicine is schedule H drug and the prescription of the doctor is mandatory for purchase of the same. It was further found in enquiry that the medical store to which the said sale is said to have been made is not found functioning and by preparing false bills sale is effected. It is also stated therein that said medicine is also abused for achieving better physical performance and that there are side effects of the said medicine which in some cases may lead to causing of death. On these allegations, report came to be lodged.

3. Learned Counsel for the Applicant states that the Applicant is medical representative of Troika Pharmaceutical Company and that except for the alleged

statement of the co-accused there is no evidence to show his involvement in the crime. It is further stated that it is not the job of the medical representative to sell or purchase the medicine, and he is only supposed to canvass the product to doctors for its recommendation/prescription.

4. Learned APP opposed the said submissions by contending that there is a statement of Uttamrao Suryawanshi showing that it was the present Applicant who had by showing the license, on his mobile phone, has taken delivery of the medicine for its sale to Aman Medico, Y.S. Hospital, Nanded. He has specifically stated that present Applicant has paid a sum of Rs. 9,051/- in cash to him. Applicant is a medical representative working for one pharma co, hence it cannot even be said that innocently he purchased the said schedule drug.

5. It is sought to be argued that the statement of co-accused cannot become admissible evidence against present Applicant. It is pertinent to note that the statement has not been made to any police officer but

it was recorded by drug inspector on 20.12.2022 i.e., prior to filing of the first information report. Thus, *prima facie* there is no bar to admit such statement as evidence. During the course of inquiry it was also found that the Aman Medico for whom delivery was taken is not in existence and the owner of the said shop, which existed earlier, has denied purchase of the said medicine.

6. Having considered the fact that medicine in question is schedule H drug and that its abuse is also apprehended. It is alleged that there is abuse of this drug by its use without prescription. First information report states that without knowing the contents and its side effects, this injection is sold to customers and gymnasiums. There are adverse effect of this drug, which is illegally used to achieve better performance ignoring the drastic effects on health, which may lead to death. Having regard to the material evidence on record, custodial interrogation of the Applicant would be necessary for effective investigation of the crime, as it just and necessary to ascertain other purchases done if any of this drug and further sale thereof by

Applicant. Grant of protection from arrest may create impediment in the effective interrogation of crime, which is absolutely essential for the society at large. Hence, application stands dismissed.

7. Learned Counsel for the Applicant states that interim protection granted to Applicant be extended for further period of four weeks.

8. Perusal of the order dated 18th April, 2023 shows that on *prima facie* consideration of the first information report the protection was granted. At that stage except for FIR, no other material was on record. Now, statement recorded by the drug inspector, evidence about purchase in name of non existing medical store on bogus bills is apparently seen. Once this Court records finding there is *prima facie* involvement of the Applicant in serious crime which requires urgent effective investigation, it is not fit case to extend interim relief. Hence, request stands rejected.

(R.M. JOSHI, J.)

Malani