

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

955 ANTICIPATORY BAIL APPLICATION NO.943 OF 2023

SHAIKH NASEEM SHAIKH HUSAIN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.S. Thombre
APP for Respondent – State : Mr. S.N. Morampalle

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CORAM : R. M. JOSHI, J.

DATE : JULY 19, 2023

PER COURT :

. Applicant is apprehending arrest in connection with Crime No.108 of 2023 registered with Jinsi Police Station, Dist. Aurangabad for the offences punishable under Sections 8 (C), 20 (B) IIA of Narcotic Drugs and Psychotropic Substance Act, 1985.

2. FIR indicates that on 18.04.2023 at around 11:40 p.m. police intercepted one motorcycle driven by accused Imran Latif Bagwan. During the search 20-23 packets containing charas weighing 130 gms were found. On the basis of these allegations offence came to be registered against the applicant.

3. As far as the present applicant is concerned, he is being

sought to be arrayed as an accused on the basis of statement of the wife of Imran. She claims that it was the present applicant and one unknown person who had kept one black colour polythene bag under the seat cover of two wheeler of her husband.

4. Learned counsel for applicant states that from the statement of wife of co-accused, it is clear that there are disputes between her and the present applicant. It is also contended that it does not stand to any reason that her husband was arrested by police for the offence under NDPS Act, however she does not immediately inform about the said packets being kept by applicant and another person.

5. Learned APP opposed the application by contending that statements of witnesses indicate that present applicant and another unknown person have kept the said contraband articles under the seat of motorcycle.

6. Specific query was made to learned APP as to the exact role investigating agency is trying to allege against present applicant. Learned APP was unable to make any specific submission in this

regard and was able to point out statement of wife of co-accused from whom narcotic substance was seized.

7. Statement of wife of co-accused about seizure of contraband articles from possession of applicant needs to be considered from the point of view that there are disputes between her and present applicant owing to her marriage. As rightly argued by learned counsel for applicant, it does not stand to any reason as to why no immediate statement was made by her in spite of her husband being arrested for the offence in question. In such circumstances only inference which can be drawn is that wife of co-accused is interested either in saving her husband or falsely implicating the applicant in present crime.

8. In absence of any other evidence to show that applicant is involved in any such offence or there is any other material to conclude that the applicant has procured the contraband articles, only on the basis of aforesaid statement, involvement of applicant cannot be presumed in this crime. Hence, this is fit case to protect liberty of applicant. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No.108 of 2023 registered with Jinsi Police Station, Dist. Aurangabad for the offences punishable under Sections 8 (C), 20 (B) IIA of Narcotic Drugs and Psychotropic Substance Act, 1985, he be released on bail on furnishing PR Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.
- (iii) He shall attend the concerned police station as and when called.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate with the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE