

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1974 OF 2022

MAHESH SONYABAPU UNWANE
VERSUS
THE STATE OF MAHARASHTRA

...
WITH BA/1775/2022

AKHTAR CHAND SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
WITH BA/1774/2022

JAMIL MAHEBUB SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
WITH BA/1776/2022

TAHIRALI @ TARU ASHRAF SAYYED
VERSUS
THE STATE OF MAHARASHTRA

...
WITH BA/1904/2022

IMRAN ASHRAF SORATHIYA
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Vijay R. Langhe, Ms. Pooja V. Langhe, Advocates for applicant in B.A.No.1974 of 2022;

Mr. Uday S. Malte, Advocate for applicant in B.A.Nos.1775, 1774 and 1776 of 2022;

Mr. Somnath G. Ladda, Advocate for applicant in B.A.No.1904 of 2022;

Mr. S. P. Deshmukh, A.P.P. for Respondent/State

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CORAM : S. G. MEHARE, J.

RESERVED ON : 11-01-2023

PRONOUNCED ON : 13-01-2023

ORDER :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.

2. The applicants are the accused in Crime No. I-723 of 2022 registered by Police Station, Rahuri, District Ahmednagar, for the offences punishable under Sections 328, 420, 276 read with Section 34 of the Indian Penal Code and Sections 21, 21(b), 22, 22(a), 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act", for short), Sections 17(B)(e), 18(a)(c), 22(cca)(b), 27-B(ii), 27(c), 28 of the Drugs and Cosmetics Act, 1940.

3. The police received secret information that few persons were selling the drugs near Shiv Chidambar Cultural Hall, Rahuri. Therefore, the police led the raid. They found some boxes in a go-down owned by Aayub Mohsin Shaikh. They apprehended applicant Jamil Maheboob Shaikh and applicant Akhtar Chand Shaikh on the spot of the incident. They gave information that the applicant Taru Ashraf Sayyed took that godown on rent from Ayyub Hussain Shaikh. Taru Ashraf Sayyed flee away from the spot of the

incident. Then they took the search of the godown and found various tablets/drugs worth of Rs.33,07,946/-. The tablets/drugs seized were Schedule 'H' and 'H1' and prescribed drugs as well as the narcotic drugs. The accused were doing the illegal business of selling the drugs without prescription and authority.

4. Applicant Mahesh Sonyabapu Unwane was arrested on 23.09.2022. He was the salesman in the medical shop. It has been alleged against him that he used to sell the drugs to the other co-accused. When he was behind the bar. Present crime was registered against him. There was no recovery from him. Similarly situated co-accused have been granted bail. Hence, his counsel claims parity.

5. The learned counsel for the applicants - Akhtar Chand Shaikh and Jamil Maheebub Shaikh would argue that they have no concern with the alleged business. They were never involved. They are just the labourers. His third applicant Taru Ashraf Sayyed has allegedly hired the godown, has no concern with the alleged incident. Nothing has been recovered from him. He is not habitual offender. There is no evidence to prove that he hired the said block/godown. He himself surrendered before the police. The procedure laid down in NDPS Act has not been followed by the Investigating Officer.

6. Mr. Ladda, the learned counsel for the applicant Imran Ashraf Sorathiya has vehemently argued that the applicant is the resident of Gujrat. He has been arraigned as an accused on the statement of co-accused. There is no evidence to prove his nexus with the alleged illegal business of drugs. He does business of toys. The allegations against him are that he used to upload the alleged drugs to the transporter. Nothing has been recovered from him.

7. The learned A.P.P. for the respondent/State has strongly opposed the applications. He would argue that the contraband were transported from Gujarat. He purchased the contraband in another State. Then he send to it Maharashtra through Gujarat road transport.

8. Applicants Jamil Mahebob Shaikh and Akhtar Chand Shaikh were apprehended on the spot of the incident. There is no evidence to show that applicant Taru Ashraf Sayyed took the said tenament on rent. Nothing has been recovered from any of the accused subsequent to their arrest. Most of the accused except applicants Akhtar and Jameel have been arrested on the statement of co-accused. Except the allegations against applicant Imran, the prosecution has no substantial evidence. The material collected against the applicant appears weak. Applicant – Mahesh has been arraigned as an accused when he was behind bar in another crime.

9. Considering the papers and the allegations levelled against the applicants, the Court is of the view that no purpose would be served keeping them behind bar. Hence, the following order:-

i) Bail Application Nos. 1974, 1774, 1775, 1776, 1904 of 2022 are allowed.

ii) Applicant Mahesh s/o. Sonyabapu Unwane in B.A.No. 1974 of 2022, applicant Akhtar Chand Shaikh in B.A.No. 1775 of 2022, applicant Jamil Mahebub Shaikh in B.A.No.1774 of 2022, applicant Imran Ashraf Sorathiya in B.A.No.1904 of 2022, applicant Tahirali @ Taru Ashraf Sayyed in B.A.No.1776 of 2022, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount, in C.R.No.I-723 of 2022 registered with Rahuri Police Station, District Ahmednagar, for the offence punishable under Sections 328, 420, 276 read with Section 34 of the Indian Penal Code and Sections 21, 21(b), 22, 22(a), 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 17(B)(e), 18-(a)(c), 22(cca)(b), 27-B(ii), 27-(c), 28 of the Drugs and Cosmetics Act, 1940, on the conditions that;

- (a) Applicant Imran Ashraf Sorathiya in B.A.No.1904 of 2022 to furnish the local surety.
- (b) The applicants shall not tamper with the prosecution witnesses.
- (c) They shall not involve in the similar crime.

(S. G. MEHARE, J.)