

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

19 BAIL APPLICATION NO.1970 OF 2023

1. AYYAZ GAFUR SHAIKH
AND
2. RISHAD RIYAZ SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. S.S. Jadhav
APP for Respondent : Mr. A.S. Shinde

...

CORAM : S. G. CHAPALGAONKAR, J.
Dated: December 01, 2023

...

PER COURT :-

1. The applicants seek regular bail in connection with Crime No.I-1003 of 2023 registered with Pathardi police station, District Ahmednagar for the offences punishable under sections 20(b), 22 (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short NDPS Act).

2. Investigation was set in motion on the basis of the information dated 27.9.2023 given by one Nilesh Mhaske, who is deputed as Police Officer at police station Pathardi. He alleges that on 26.9.2023 secret information was received that a Scropio jeep bearing registration No.MH-17/BS-9711 is carrying contraband (Ganja) and two persons are occupying in it. In pursuance of such information trap was arranged. Accordingly, vehicle was intercepted. On search of the vehicle, applicants were found carrying contraband. Inventory was seized weighing to be 1.935 kgs. The applicants were

aaa/-

immediately arrested and since then they are behind the bar. Prayer of the applicants for release on bail has been rejected by the Special Court vide order dated 25.10.2023.

3. Mr. Jadhav, learned advocate appearing for the applicants would submit that applicants were not in conscious possession. The vehicle in question is not owned by them. Contraband which is alleged to have been seized from the accused measured less than two kilograms. He would submit that ban under section 37 of the NDPS Act would not operate in this case. There are no criminal antecedents. Therefore, he urges to release the applicants on bail.

4. Learned A.P.P., however, vehemently opposes the prayer. He would submit that applicants were arrested while they were transporting the contraband in the jeep. The seized articles are sampled and sent for C.A. report, which is still awaited. Investigation is not yet completed. Offences are punishable up to ten years. As such, he opposed for grant of bail.

5. Having considered the submissions advanced and considering the documents placed before the Court, it can be gathered that on 27.9.2023 jeep in question was intercepted. The applicants were found traveling in the said jeep. On search of the jeep, contraband material was seized weighing about 2 kilograms. It is not in dispute that none of applicant is owner of the jeep. Whether mandatory provision of search or seizure followed or not would be a question of trial. However,

considering quantity of the contraband which is less than two kilograms, rigors of section 37 of the NDPS Act would not apply in the present case. Contraband is already seized. It is submitted on behalf of the applicants that the person named as source of the contraband is already granted ad-interim protection in an application seeking pre-arrest bail. The learned APP confirms that there are no criminal antecedents. The applicants are young aged persons and they are behind the bar for more than two months. Further detention of the applicants need not be continued. In that view of the matter, case is made out for grant of bail. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicants – 1] AYYAZ GAFUR SHAIKH AND 2] RISHAD RIYAZ SHAIKH be released on bail in connection with Crime No.I-1003 of 2023 registered with Pathardi police station, District Ahmednagar for the offences punishable under sections 20(b), 22 (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 on their furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand), by each of them on following conditions :-
 - a] The applicants shall not tamper the prosecution evidence.
 - b] The applicants shall attend the concerned police station once in a week i.e. on every

Monday between 10 am to 2 pm till filing of the charge-sheet.

- c] The applicants shall attend each and every effective date before the Special court.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

...