

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.95 OF 2022

Johnny Maksad Biswas @ Moklesur Rehman ..Applicant

VS.

The State of Maharashtra

..Respondent

Adv. Ashwini Achari a/w Adv. Advait Tamhankar i/b. Adv. Taraq Sayed for the Applicant.

Mr. S. V. Gavand, APP for the State.

API Pratibha Joglekar, Vashi Police Station, Navi Mumbai is present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 31, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail by the applicant-Johnny Maksad Biswas @ Moklesur Rehman in connection with C.R. No.111 of 2020 dated 03/03/2020 registered with Vashi Police Station, Navi Mumbai, for the offence punishable under Sections 8(c), 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'NDPS Act', for short), under Sections 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code, 1860, under Sections 3

and 6 of the Passport (Entry into India) Rules, 1950 and under Section 14(A) of the Foreigners Act, 1946.

3. The incident is dated 02/03/2020. The applicant is the original accused No.1. The accused No.1 was found in possession of 15.768 grams of substance called methamphetamine. On the basis of the memorandum statement of the present applicant, the accused No.3 came to be arrested. The accused No.3 at the time of arrest was found in possession of 11.003 grams of substance. The applicant is alleged to be the supplier of the contraband. There are no criminal antecedents reported against him.

4. By an order dated 21/01/2022, this Court in Criminal Bail Application No.1107 of 2021 released the accused No.3 (Juvel Abdul Mandal) on bail. It is sufficient to reproduce paragraph 7 of the order dated 21/01/2022 which reads thus :-

"7. I have considered these submissions. It is not necessary to go into the details of the submissions in respect of violation of the mandatory provisions in this case at this stage. It is best left for the trial Court to decide this issue in the circumstances of this case. It is sufficient to note that the quantity which was recovered from the application is bigger than the small quantity, but lesser than commercial quantity. Even if the contraband seized

from the other accused is also added to the total seizure, even then the total seizure does not go beyond the commercial quantity of 50 gms. as given in the NDPS Act for Methamphetamine. Therefore bar of section 37 of NDPS Act will not apply against the Applicant, because the offence does not involve commercial quantity. The Applicant does not have criminal antecedents. There is scope to believe that he is not likely to commit offence while on bail. In this view of the matter, the Applicant can be released on bail.

5. Learned APP pointed out that the applicant is a Bangladeshi national. The applicant at the relevant time was residing in Thane.

6. The applicant was arrested on 03/03/2020. The applicant is now in custody for more than 2 years and 10 months. There is no possibility of the trial concluding any time soon. On the ground of parity with the accused No.3 as well as the fact that the charge-sheet has been filed and the investigation is complete, the applicant can be released on bail. It is necessary to impose certain conditions while releasing the applicant on bail.

7. Hence, the following order :-

ORDER

(a) In connection with C. R. No.111 of 2020, dated 03/03/2020, registered with Vashi Police

Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two local sureties in the like amount.

(b) The applicant shall attend the concerned Police Station once in a month on every Monday of the first week between 11.00 a.m. and 1.00 p.m.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(e) The applicant shall not leave the area of Thane district without prior permission of the trial Court.

8. The Bail Application is disposed of.

(M. S. KARNIK, J.)