



Urmila Ingale

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

BAIL APPLICATION NO. 693 OF 2023

MUKESH KUMAR SAHA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Taraq Sayed a/w Ms. Ashwini Achari and Ms. Alisha Parekh, for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 30, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under sections 8(c), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on 10/08/2021 vide C.R. No. 71 of 2021 with Anti Narcotics Cell, Worli Unit, Mumbai.
3. The applicant is the accused no. 1. The applicant was arrested on 10/08/2021.
4. The date of the incident is 10/08/2021. The raiding

party of the respondent noticed the movements of the accused suspicious. After following the procedure for search and seizure, the applicant was found in possession of 1.994 kg. of contraband Charas which is a commercial quantity. From the accused no.2, the contraband Charas of 1.443 kg was found.

5. My attention is invited to the panchanama dated 10/08/2021 in respect of drawing samples. From the applicant, two blocks of Charas were recovered. While drawing samples from these two blocks, 25 grams of Charas from each block was scraped with the knife for the purpose of drawing samples which was kept in two separate plastic bags. The plastic bags then came to be sealed. From the panchanama, it is seen that the packets were marked as A-1 and A-2. From the packets A-1 and A-2 which concerns the present applicant, article A-1 was sent for chemical analysis. The article A-2 was kept as representative sample. I have perused the forensic examination report at page 21 of the paper-book. The analysis by forensic department would reveal that Exhibit-1 contained brownish colored lumps in a polythene put in a packet marked A-1. The other packet –

Exhibit 2 pertained to the co-accused. *Prima facie*, it appears that the samples of 'Charas' collected from the two blocks in the possession of the applicant were mixed together. In this view of the matter, I am of the *prima facie* opinion that rigours of section 37 of NDPS Act can be overcome, more so when the applicant is in custody for more than 2 years and 3 months with no possibility of trial concluding any time soon. There are no criminal antecedents reported against the present applicant and therefore it is unlikely that the applicant will commit any offence of similar nature in future.

6. In this view of the matter, I am inclined to enlarge the applicant on bail by imposing stringent conditions. The investigation is complete. The charge-sheet has been filed. Further custody will only be by way of a pre-trial punishment in the facts and circumstance of the case. The applicant will face the consequences post-trial if found guilty. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Mukesh Kumar Saha in connection with C.R. No. 71 of 2021 registered with Anti-Narcotics Cell, Worli Unit, Mumbai shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall attend the investigating officer of Anti-Narcotics Cell, Worli Unit, Mumbai once in a fortnight on first and third Monday of every month between 11.00 a.m. and 1.00 p.m. till conclusion of the trial.

(d) 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.

(e) 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.

(f) The applicant shall not leave the State of Maharashtra without permission of the trial Court.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall make himself available as and when called by the investigating officer.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

7. The application is disposed of.

(M. S. KARNIK, J.)