



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

BAIL APPLICATION NO. 826 OF 2023

RAJENDRA SUVARNA SHEKHAR SALIYANA ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Satyavrat Joshi i/b Mr.Ashish Vernekar, for the Applicant.
Mr. P. H. Gaikwad, APP for the State.
PSI- Mr. Dnyaneshwar Dalvi a/w Police Naik- D.R.Ghase,
Talegaon Dabhade police station is present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 08, 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) and 17(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on 20/02/2020 vide C.R. No.62 of 2020 with Talegaon Dabhade police station. The applicant was arrested on 20/02/2020.
- 3.** It the case of the prosecution that when the raiding party was on patrolling duty, they found movements of the present applicant suspicious. The raiding party approached

the applicant on 20/02/2020. On enquiry, the applicant disclosed that there was contraband 'Afeem' in the bag that he was carrying. Accordingly, the raiding party conducted the procedure of search and seizure and recovered 'Afeem' weighing 2.926 kg. The contraband was subjected to the drug detection kit when prima facie it was revealed that the contraband was 'Afeem'. So far as the 'Afeem' is concerned, anything above 2.5 kg is a commercial quantity. The applicant was found with possession of 426 grams more than the minimum of the commercial quantity prescribed for 'Afeem' by notification.

4. Perusal of the chemical analysis report indicates that the contraband which was sent for analysis was found to be 'Charas'. So far as contraband 'Charas' is concerned, anything above 1 kg is a commercial quantity for the application of rigours of section 37 of NDPS Act.

5. Learned APP while opposing the application invited my attention to the reply filed on behalf of the respondent and affirmed by Shri Prashant D.Mahale, Assistant Police Inspector attached to Anti Narcotics Cell, Pimpri Chinchwad Police Commissionerate, District-Pune. It is submitted that

the procedures are duly followed. My attention is invited to ground (d) of the affidavit wherein the role of the applicant and the manner in which the search and seizure is carried out, is pointed out.

6. The applicant is in custody from the date of this arrest since 20/02/2020 for a period of more than 3 years and 9 months. The witnesses are yet to be examined. The trial is not likely to conclude soon. There is nothing on record to indicate that the trial is protracted at the instance of the applicant. There are no criminal antecedents reported against the applicant. Considering the long incarceration and the fact that the substance which was seized at the time of the raid is found to be different from the substance which was analysed by the forensic laboratory, prima facie, I am of the view that the rigours of section 37 of the NDPS Act can be overcome. It is made clear that these are my prima facie observations and the trial court shall proceed with the trial on its own merits without being influenced by any of the observations. No antecedents as against the applicant are reported so as to form an opinion that the applicant will commit any offence in future as well. Since

learned APP submits that the applicant is from Karnataka, some conditions need to be imposed to ensure his presence at the time of trial. The investigation is complete. The charge-sheet has been filed. In my opinion, the applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Rajendra Suvarna Shekhar Saliyana in connection with C.R. No. 62 of 2020 registered with Talegaon Dabhade police station, Pune shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the investigating officer of Talegaon Dabhade police station, Pune once in two months on first Monday of every alternate month between 11.00 a.m. and 1.00 p.m. commencing from January 2024.
- (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 attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall surrender his passport to the investigating officer. If the applicant does not have passport, he shall file the affidavit to that effect.

(h) It is made clear that if the applicant indulges in the similar type of offence in future, the same shall afford a ground to the prosecution to apply for cancellation of bail.

(i) The applicant shall not leave the country without permission of the trial Court.

7. The application is disposed of.

(M. S. KARNIK, J.)