

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

**BAIL APPLICATION NO.4162 OF 2021
(THROUGH JAIL)**

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Jyotsna Sanjay Shrivastav

..Applicant

VS.

The State of Maharashtra

..Respondent

Adv. Tanvi Sawant for the Applicant.

Ms. A. A. Takalkar, APP for the State.

Adv. Ruju R. Thakker for Respondent (DRI).

CORAM : M. S. KARNIK, J.

DATE : MARCH 2, 2023

P.C. :

1. Heard learned counsel for the applicant.
2. This is an application for bail filed through jail.
3. I had requested Advocate Tanvi Sawant to assist this Court and argue the matter on behalf of the applicant.
4. I have heard Advocate Tanvi Sawant, learned counsel for the applicant and Advocate Ruju R. Thakker, learned counsel appearing on behalf of Directorate of Revenue Intelligence (hereafter "DRI", for short).
5. Learned counsel for the DRI opposed the application.

She submitted that the applicant was virtually running the factory. It is submitted that considering the seriousness of the accusations and having regard to the statements of the witnesses on record, this is not a fit case to release the applicant on bail.

6. In the present case the investigation is complete and the charge-sheet has been filed. The applicant was arrested on 05/08/2017 and now in custody for a period of more than 5 years and 6 months. She is a woman. With the assistance of learned counsel for the applicant and learned counsel for the DRI I have gone through the statements of one Anita Pathak and Vindesuri Jayswal who are the employees of the factory and my attention has also been drawn by learned counsel for the DRI to the statement recorded under Section 67 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short) of the applicant. From the reading of the statements, prima facie, it appears that the applicant's husband was the one who looking after the day-to-day affairs of the factory. Undoubtedly the accusations are

serious as large quantities of 882.20 liters of Mephedrone in liquid form was seized from Shivam Pharma in which the applicant is a partner. At the relevant time when the raid was conducted it is alleged that the applicant was the one who was in charge of the manufacturing activities and looking after the affairs of the factory. From the reading of the statements it appears that it is the applicant's husband who was looking after the affairs of the company even while in custody. On instructions of the applicant's husband the applicant appears to have initially halted the production and thereafter called upon the employees to resume production. She was in contact with brother-in-law i.e. accused No.2 (Dhananjay Braj Narayanlal Srivastav) and other employees. In the statement under Section 67 of the NDPS Act she had stated that the applicant's husband passed instructions to her through jail regarding commencement of the operations of the factory and because of financial difficulties she commenced operations.

7. The applicant is a woman and now in custody as a under-trial prisoner languishing for more than 5 years and 6

months. Though the charge has been framed on 27/02/2023, the trial is likely to take a long time to conclude. The next date fixed is 03/03/2023. Prima facie, it appears that the applicant has acted as per the instructions of her husband. It would have been appropriate on her part not to have gone ahead with the production as her involvement amounts to an offence. This she did as per the instructions of her husband. However, considering that she is in custody for such a long time, I am satisfied that the applicant can be released on bail. The long incarceration coupled with what is stated above is sufficient to get over the rigors of Section 37 of the NDPS Act. There are no criminal antecedents reported against the applicant. There is nothing to indicate that prior to the arrest of the applicant's husband she was involved with the affairs of the factory. Presently the factory is sealed and there are no production activities going on. There is no likelihood of her committing a similar offence in future.

8. The applicant to ensure that upon her release on bail, such type of activities are not carried on and that she will

not indulge herself in similar kind of offence, the consequence of which may also be the cancellation of the present bail.

9. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) Applicant-Jyotsna Sanjay Shrivastav shall be released on bail in connection with C.R. No.91 of 2017 registered with DRI, on her furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (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) The applicant shall report to the DRI Office at Marine Lines twice a month on every alternate Friday between 11.00 a.m. and 12 noon.

(e) On being released on bail, the applicant shall furnish her 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 jurisdiction of Thane, Mumbai, Mumbai Suburban and Palghar district without the leave of the trial Court.

(g) The applicant shall surrender her passport with the Investigating Officer before her release on bail. If she does not have a passport, she shall file an affidavit to that effect at the time of her release on bail.

10. The Bail Application is disposed of.

11. This order be communicated to the jail authorities for information of the applicant.

(M. S. KARNIK, J.)