



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

BAIL APPLICATION NO.1853 OF 2023

ZAMEER RASHID SHEIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. V. D. Khetre a/w Adv. Ajay Vilas Ingle a/w Adv. Rutuja Patil a/w Adv. Umesh Khare for the Applicant.

Ms. Veera Shinde, APP for the State.

API Manik Patil, Kashimira Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 16, 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 420, 465, 468, 471, 473, 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 8(c), 21(c), 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'NDPS Act' for short) registered on 28.09.2022 vide C.R. No.675 of 2022 with Kashimira Police Station, District Thane.

3. The FIR was registered on 28.09.2022. There are in all ten accused. The applicant is the accused No.3. The

applicant was arrested on 28.09.2022. On 27.09.2022, the informant P.I.-Mahesh Ramchandra Tatkare and other police officials were on patrolling duty along with P.I.-Badakh. At about 4.00 p.m. near Sharmila Pagi compound, Kashimira, a tempo bearing No.MH-48/CB-4402 and the car bearing No.MH-02/BY-3422 were parked adjacent to each other and stock from tempo was being taken out for being loaded into the car. The Investigating Officer enquired about what is happening. On checking of the stock because of the suspicious activities, 32 boxes containing bottles of Rx Chlorpheniramine Maleate Codeine Phosphate Syrup, Phensirest Syrup (Cough), of 100 ml. each, which could not be sold by retail without prescription was found. The car in possession of the accused No.2 - Chandan Thakur was found consisting of similar 36 boxes, however, instead of Phensirest Syrup, it was Recokuf Cough Syrup which was found. The statement of the accused No.2 was recorded. The accused No.2 revealed that the accused No.2 took the delivery of the boxes from Om Logistic Courier Company which he kept in the car. The accused No.2 has stated that

on the challan a bogus stamp was affixed provided by the present applicant i.e. accused No.3. The accused No.2 disclosed the place where the bogus stamp was kept by him. Accordingly a memorandum panchanama was recorded on 29.09.2022.

4. Learned APP while opposing the application for bail submitted that the applicant is very much involved and complicit with the offence in question. It is submitted that the statement of the accused No.2 is sufficient to disclose the role of the present applicant in the commission of the offence. Learned APP further invited my attention to the statement of one Mujib Khalil Shaikh which is at page 159 of the paper book where he states that the accused Nos.2 and 3 are involved in the sale of contraband syrup mentioned hereinabove.

5. The only material against the present applicant is a statement of the co-accused No.2 where he states that a bogus stamp was supplied by the applicant which the accused No.2 used to stamp the challan. The applicant was not found in possession of the contraband. Prima facie there

is no material to indicate the involvement of the applicant so far as the contraband which is the subject matter of this application is concerned. The applicant was arrested on 28.09.2022 and is now in custody for more than 12 months. The criminal antecedent against the applicant is in the nature of one Summary Case No.7938 of 2021 pending before Judicial Magistrate First Class, Thane under the Drugs and Cosmetics Act. The maximum punishment for Summary Case pending against the applicant is one year rigorous imprisonment if found guilty.

6. Considering the nature of the materials and having regard to the facts and circumstances of the present case, I am of the opinion that the present is a case where I am prima facie inclined to record a satisfaction in terms of Section 37 of the NDPS Act that there are reasonable grounds for believing that the applicant is not guilty of the offence alleged. Further considering that there are no similar criminal antecedents under the NDPS Act, it is doubtful that the applicant is likely to commit any offence while on bail. In my opinion a case is made for enlargement

of the applicant on bail. Considering the nature of the accusations, I propose to impose some stringent conditions.

Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Zameer Rashid Sheikh in connection with C.R. No.675 of 2022 registered with Kashimira Police Station, District Thane 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 Kashimira Police Station, District Thane twice a month on the first and third Monday of every month between 11.00 a.m. to 1.00 p.m.
- (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) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Mumbai/Mumbai Suburban District and Thane District after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly.

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

7. The application is disposed of.

(M. S. KARNIK, J.)