

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

BAIL APPLICATION NO. 3313 OF 2021

Mohammed Usman Mohiddin Shaikh ..Applicant

v/s.

Union of India . ..Respondents

Mr. Advait Tamhankar a/w. Ms. Ashwini Achari a/w. Taraq Sayed
for the Applicant.

Mr. Rahul Tiwari for the Respondent.

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

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 6th JUNE, 2023.**

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in NDPS Special Case No. 220 of 2020 for the offences under Section 8 (C) r/w. 20(C), 23,29, 30 of the NDPS Act.

2. Heard learned Counsel for the Applicant, learned Counsel for the Respondent and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The case of the prosecution in brief is that on 05.09.2019, 1000 grams of charas was recovered from the bag of Accused No.1

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and 900 grams of charas was recovered from the bag of the Accused No.2, who proposed to fly from Mumbai to Doha, by Air India Flight No. IX 243. The Accused Nos.1 and 2 disclosed that the Applicant herein had exchanged their bags and had given them two bags containing contraband.

4. Learned APP states that one bag was recovered from the house of the Applicant. Suffice it to say that there is no material on record to indicate that the said bag belonged to the Accused No.1 or the Accused No.2, and hence mere recovery of the bag from the house of the Applicant would not prima facie be an incriminating circumstance. Apart from the statement of the Accused No.1 and Accused No.2, who were found to be in possession of the contraband goods, there is no prima facie material to show the involvement of the Applicant in the said crime. Moreover, the Applicant Nos.1 and 2 have already been released on bail.

5. The Applicant is an Indian National, and there are no chances of his absconding or thwarting the course of justice. Hence, the application is allowed on the following terms and conditions:--

(i) The Applicant who is facing trial in NDPS Special Case No. 220 of 2020, is ordered to be released on provisional cash bail of

Rs.50,000/- (Rupees Fifty Thousand Only) for a period of four weeks;

ii) The Applicant shall within the said period of four weeks furnish Bail Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Special Court;

(iii) The Applicant shall attend the Special Court on every date of hearing, unless exempted.

(iv) The Applicant shall surrender his passport before the Special Court, and shall not leave the country without prior permission of the Court.

(v) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;

(v) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.

(ANUJA PRABHUDESSAI, J.)