

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

ANTICIPATORY BAIL APPLICATION NO. 2563 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.09.13
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Riyaz Rahim Ahmed Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Manohar Mandavkar, for the Applicant.

Mrs. Geeta Mulekar, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 11th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.680 of 2023, registered with Nagpada Police Station, Mumbai, for the offences punishable under Section 3(a) read with Section 6 of the Passport Rules, 1980 and Order 3(1) of the Foreigners Order, 1948 and Section 14 of the Foreigners Act, 1946.

3. The gravamen of indictment against the applicant is that, pursuant to an intimation, on 28th July, 2023 a raid was conducted in Building No.8, Lane No.14, Kamathipura and four Bangladeshi nationals were found. They were

apprehended. It transpired that the applicant had made them to stay at the said premises. However, the applicant could not be apprehended as he had fled away before the police party reached the scene of occurrence.

4. The learned Counsel for the applicant submitted that it is not the allegation of the prosecution that the applicant had facilitated illegal immigration of the apprehended accused. It was, at best, the case of the prosecution that the applicant had facilitated them in securing the said place for their stay.

5. The learned APP submitted that there are antecedents of the applicant which indicate that he has been involved in the offences punishable under Prevention of Immoral Traffic Act.

6. On the perusal of the allegations in the first information report, at best, the gravamen of indictment against the applicant appears to be that of assisting the arrested accused in their stay at the said place. The prosecution case, even if taken at par, *prima facie* does not make out the offences for which the applicant has been arraigned. Having regard to the nature of the accusation, in any event, the custodial interrogation of the applicant does not seem to be warranted.

The apprehension on the part of the prosecution can be taken care of by imposing conditions.

7. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.680 of 2023, registered with Nagpada Police Station, Mumbai, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Nagpada Police Station, Mumbai on every Sunday in between 10.00 am. to 1.00 pm. for a period of one month.
- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant or any person acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.

- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]