

This order is corrected as per speaking to the minutes of order dated 13.06.2024

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 787 OF 2024

Ambadas Shantaram Shinde

VERSUS

The State Of Maharashtra

...

Advocate for Applicant : Mr. Narwade Narayan B.

APP for Respondent/State : Mr. S.R. Wakale

...

CORAM : S.G. MEHARE, J.

DATED : JUNE 12, 2024

PER COURT:-

1. Leave granted to correct the name of father of the applicant.
2. Heard learned counsel for the applicant and learned APP for the State.
3. In the raid of the house of the applicant, the police found 4 kilo 626 grams Ganja and 36 grams of Heroine.
4. Learned counsel for the applicant would submit that the quantity as per the Government Gazette allegedly seized from the applicant is intermediate quantity. Therefore, Section 37 of NDPS Act would not apply. He would submit that there are no antecedents to the discredit of the applicant. The investigation has been completed and nothing is to be recovered from the applicant. Since he was to perform the marriage of his daughter, the huge amount of Rs.4 lac

was lying in his pocket. Unfortunately, the marriage has been postponed further. There is a discrepancy in the description of the house where from the alleged drugs have been seized. The applicant has a clean past. Hence, he may be granted bail.

5. Learned APP has strongly opposed the application. He would submit that he would agree that the quantity of the drugs recovered was intermediate. However, there is a great possibility of involving the applicant again in the similar crime. Hence, he may not be granted bail.

6. Considering the quantity allegedly recovered from the house of the applicant is intermediate, the Hon'ble Supreme Court in the case of Sami Ullaha Vs. Superintendent, Narcotic Central Bureau, (2009) AIR (SC) 1357, held that as per small quantity in terms of the notification issued under Sections 2(viia) and 2(xxiiia), quantity alleged to have been recovered from the co-accused person could be said to be intermediate quantity and, thus, the rigours of the provisions of Section 37 of the Act relating to grant of bail may not be justified.

7. The conviction for the offence for which the applicant has been put to trial is upto 10 years. The Act is a special law controlling the drug addiction amongst the youngsters and protecting the national asset. However, the law has been crystallized by many judgments. Strict rules are to be followed. Where the quantity is

commercial, Section 37 of the said Act would apply otherwise not. The property allegedly stored for the business has been recovered. There are no antecedents to the discredit of the applicant.

8. Considering the entire aspect of the case and particularly the quantity of drugs recovered from the applicant, it would be inappropriate to keep the applicant behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Ambadas Shantaram Shinde, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in Crime No.325 of 2024 registered with Sangamner City Police Station, District Ahmednagar for the offence punishable under Sections 8-C, 20(B)(ii) and 21 of the NDPS Act, on the conditions that;
 - (a) The applicant shall attend the trial on each and every date.
 - (b) The applicant shall not involve in similar profession/business.
 - (c) The applicant shall not protract the trial.

(4)

- (d) If the applicant would be arrested in similar crime, the prosecution would be at liberty to file application for cancellation of his bail order.

(S.G. MEHARE, J.)