



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 827 OF 2023

Shubham Kiran Rana

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

WITH
BAIL APPLICATION NO. 1140 OF 2023

1. Bhushan Keshav Pawar

2. Ravindra Gulabrao Shinde

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. A.K. Bhosle, Advocate for applicants

Mr. V.K. Kotecha, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT, J.
RESERVED ON : 22nd DECEMBER, 2023
PRONOUNCED ON : 03rd JANUARY, 2024

ORDER :

1. Both these applications have been moved for grant of bail under Section 439 of Code of Criminal Procedure. The applicants have been arrested in connection with Crime No. 95 of 2019 registered with Chalisgaon City Police Station, Dist. Jalgaon for the offences punishable under Sections 8(c), 20 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and under Sections 420 and 465 of the Indian Penal Code.

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. The bail has been mainly sought on the ground of some what long incarceration. Reliance has been placed on the order of Apex Court in case of *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP (Cr.) No. 6690 of 2022)*.

4. Facts of the case read thus :-

Pursuant to the tip off, a trap was laid. Two vehicles viz. Toyota Innova and Mahindra Marazzo, bearing registration nos. MH-14-AN-6532 and MH-15-GL-1761 respectively, were intercepted on 09th March, 2019. On search of both the vehicles, contraband articles viz. Ganja weighing 593 kgs. worth Rs.44,47,500/- came to be seized. The applicants herein were the occupants of those vehicles. Some other occupants of the vehicles fled taking advantage of darkness. The applicants came to be arrested. On investigation, the charge-sheet has been filed.

5. Learned A.P.P. has strong reservation to grant the applicants bail. According to him, it is a serious offence. Total 593 kgs. of Ganja, a huge quantity, was seized. There is interdict of Section 37 of the NDPS Act to grant the applicants bail.

6. We do not propose to make any observations regarding merits of the matter. The applicants have been behind the bars since 09th March, 2019. Within next two and half months they would be completing incarceration of five years. The trial has not yet commenced. The Apex Court in its order in case of Dheeraj Kumar Shukla (supra) has observed thus :-

“2. The allegations are that on a secret information, the police authorities intercepted two vehicles on 23.06.2020 i.e. one ‘Gray’ coloured ‘Honda City’ car and the second ‘White’ coloured ‘Swift Dzire’ car. On an interrogation at the spot, Praveen Maurya @ Puneet Maurya, Rishab Kumar Maurya and Dheeraj Kumar Shukla were found to be occupants of the ‘Honda City’ car whereas the petitioner was driving the ‘Swift Dzire’ car. On taking a search, more than 92 kgs. Ganja was allegedly recovered from ‘Honda City’ car whereas more than 65 kgs. Ganja was recovered from ‘Swift Dzire’ car. The accused were arrested at the spot. The petitioner is, thus, in custody since 24.06.2020.

3. It appears that some of the occupants of the ‘Honda City’ car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.”

7. In view of the aforementioned observation by the Apex Court and considering the facts that the applicants are in jail for about four years

and nine months, we are inclined to allow both the applications. Hence I pass the following order :-

ORDER

- (I) The applications are allowed.
- (II) The applicants be released, in connection with Crime No. 95 of 2019 registered with Chalisgaon City Police Station, Dist. Jalgaon for the offences punishable under Sections 8(c), 20 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and under Sections 420 and 465 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) each with one surety in the like amount.
- (III) The applicants shall mark their attendance with Chalisgaon City Police Station, Dist. Jalgaon once in a week i.e. on Sunday between 11:00 a.m. to 12:00 noon for next six months.
- (IV) The applicants shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD