



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

960 BAIL APPLICATION NO. 1896 OF 2024

SHEKHAR SHRIKRUSHNA PAGAR

VERSUS

THE DIRECTORATE OF REVENUE INTELLIGENCE

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Advocate for Applicant : Mr. Ghanekar Nilesh S.

Standing Counsel for Respondent-DRI : Mr. Parikshit P. Dawalkar

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CORAM : S. G. MEHARE, J.

DATE : 25th October, 2024.

P.C.:

1. Heard the learned counsel for the applicant and the learned Standing Counsel for the Directorate of Revenue Intelligence.
2. The applicant seeks bail in Crime/Enquiry no.F. No.DRI/MZU/PuRU/ENQ-46/2023, for the offences punishable under sections 22, 25, 27-A, 28 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act").
3. It has been alleged against the applicant that he had a knowledge that psychotropic substances were stored in his Company. He kept silent. He being a store keeper was involved in the crime. He is languishing in jail for one year.
4. The learned counsel for the applicant would submit that the applicant has no role to play. However, he being a store keeper of the company has been arraigned as an accused. In the raid itself, everything was seized. Thereafter, there was no recovery of anything. His master has been granted bail. A bulky chargesheet has been filed.

Trial may take its time. The applicant has no antecedents to his discredit. Hence, bail may be granted to him.

5. The learned standing counsel for DRI has vehemently argued that it is a serious crime. The psychotropic substance found in the company where the applicant was store keeper, was dangerous to the society. Young boys are trapped to addict such drugs. Therefore, this is an offence against the society. A punishments for the sections applied against the applicant are also serious. He would submit that in view of section 54 of NDPS Act, it should be presumed that he has committed offence under this Act because illicit articles were in his possession and control. The learned standing counsel would submit that since the quantity was commercial, a rider of section 37 of NDPS Act would apply. The psychotropic substances have been recovered at his instance from the factory itself. Since there is presumption, no bail could be granted to him. He prayed to dismiss the application.

6. Section 37 of the NDPS Act provides for releasing the accused. It has been provided that an opportunity should be given to the Public Prosecutor for opposing an application, if the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail. The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure. The Hon'ble Supreme Court in the case of ***Union of India***

vs. Shiv Shanker Kesari (2007) 7 SCC 798 has interpreted the term reasonable grounds used in section 37(1)(b)(ii) that the expression means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence charged and this reasonable belief contemplated in turn points to existence of such facts and circumstances as are sufficient in themselves to justify recording of satisfaction that the accused is not guilty of the offence charged. Further, the Hon'ble Supreme Court has observed about the relevant considerations while granting bail. The Court while considering the application for bail with reference to section 37 of the NDPS Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail, that the Court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But, the Court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty.

7. Considering the ratio of the Hon'ble Supreme Court in above case, the Court has to assess the facts and role attributed to the applicant. Sub-clause (ii) of section 37(1) speaks about the satisfaction of the Court for believing that the accused is not guilty of such offence and for such belief, there should be reasonable grounds. Facts in this case reveal that he has no direct control over the alleged psychotropic

substances. He was an employee of the factory and just maintaining the store of the alleged contraband for running his master's factory. Since he was a store keeper, it was but natural that he was knowing where the psychotropic substances were stored. The store was in the premises of the factory. It was not stored in another place. Therefore, it can be believed that without affecting the rights to raise all grounds by all parties during the trial, there are relevant grounds to doubt his guilt. That apart, the applicant was just an employee and bound by the terms of employment. His bare statement under section 27 of the Indian Evidence Act would not bind him and admit against him to prove charges.

8. So far as section 54 of the NDPS Act is concerned, it is presumption which is rebutted. Reading the section, its object is not to affect the rights on the bail of the accused. Since presumptions are rebuttable till the trial is opened, those could not be rebutted. Therefore, the Court is of the view that section 54 of the NDPS Act does not bar granting bail. A bulky chargesheet reveals that nothing is to be recovered from him. He has roots in Aurangabad. Therefore, we can believe that he would not abscond. It is apparent that there would be no speedy trial.

9. For the above reasons, further detention of the applicant would serve no purpose. He is not hardened criminal. He has no bad past. Hence, he deserves bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant SHEKHAR SHRIKRUSHNA PAGAR be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in the above crime for the aforesaid offences, on the following conditions :
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) He should attend the trial on each and every date and co-operate with the Trial Court to conclude the trial.

(S.G. MEHARE, J.)