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

934 ANTICIPATORY BAIL APPLICATION NO. 1164 OF 2024

Tarakaur W/o Bhagtsingh Bhosiwale

VERSUS

The Superintendent Of Police And Another

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Mr S. S. Gangakhedkar, Advocate for Applicant

Mrs D. S. Jape, A.P.P. for Respondents/State

CORAM : R. M. JOSHI, J.

DATE : 17th October, 2024

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 0156 of 2024, registered with Vazirabad Police Station, Dist. Nanded, for the offences punishable under Sections 8, 17, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2. The first information report lodged by the Police Inspector of the Local Crime Branch, Nanded indicates that secret information was received by the police to the effect that one person, in contravention of provisions of NDPS Act, has in his custody poppy straw powder (contraband) for the same.

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Accordingly, the trap was laid. Accused Surjitsingh Kalyansingh Thakur was accosted. He was found carrying poppy straw powder weighing 2.285 Kgs. worth Rs.11,425/-. It is stated in the first information report that, at the time of the said raid, he has disclosed name of present applicant and one more person to be the one from whom he has brought the said contraband article. On the basis of this statement, applicant apprehends arrested.

3 Learned counsel for applicant submits that, except for alleged statement made by the co-accused at the time of raid, there is no evidence to connect applicant to the crime. It is his contention that, there is no statement recorded by the Investigating Agency under Section 67(c) of the NDPS Act. In absence of thereof, the said statement cannot be used against present applicant even at this stage i.e. at the stage of anticipatory bail. He makes a solemn statement that, there are no criminal antecedents against applicant.

4. Learned APP opposed the application by relying upon judgment of the Hon'ble Supreme Court in case of ***State of Haryana Vs. Samrth Kumar, [AIROnline 2022 SC 271]***.

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5. Perusal of the record indicates that, except for alleged statement made by co-accused at the time of raid, there is no other statement recorded of the co-accused under the provisions of 67(c) of the NDPS Act. Perusal of the judgment of the Hon'ble Supreme Court in case of State of Haryana (supra) shows that, in that case, there was disclosure statement of main accused. Relying upon said statement, it was held that anticipatory bail cannot be granted. In absence of any such statement recorded in this case, the prosecution would not get any help from the said judgment. Apart from this, admittedly, the quantity of powder is not commercial quantity. The applicant has no criminal history. She is not likely to flee from justice.

6. Having regard to the aforesaid facts, the Court finds that there is no evidence to connect applicant to the crime and therefore, application deserves to be allowed. Hence, following order:-

ORDER

(i) In the event of arrest of applicant in connection with Crime No.0156 of 2024, registered with Vazirabad Police Station, Dist. Nanded, for the

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offences punishable under Sections 8, 17, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount.

(ii) He shall attend the concerned police station once in a week.

(iii) He shall not contact the witnesses directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(v) He is further directed to cooperate the investigating agency for further investigation.

(vi) Learned APP to communicate this order to the concerned Investigating Officer.

(R. M. JOSHI)
Judge