



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.605 OF 2024**

Rukhsana Asgar Shaikh	...	Applicant
versus		
The State of Maharashtra	...	Respondent
WITH		
BAIL APPLICATION NO.915 OF 2024		

Nasir Dawood Khan	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Sherali S. Khan, for Applicant.
Mr. S.R.Aagarkar, APP for State.
API Vijay D. Achrekar, Bandra Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 25 APRIL 2024

P.C.

1. Heard the learned Counsel for the parties.
2. These applications are for bail in connection with C.R.No.1499 of 2023 registered with Bandra Police Station for the offences punishable under Sections 21(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. On 6 October 2023, DCB CID were on patrolling duty. Two persons were found moving suspiciously near BMC play ground, Shastri Nagar, Bandra (W), Mumbai. As the police party suspected that those persons were concealing incriminating articles, they were apprised of their right to be searched under Section 50 of the Act. They declined to avail the said right. Thereupon, in the presence of

panch witnesses, the person of the suspects was searched. In the search of Nasir Dawood Khan – applicant in BA No.915 of 2024, 34 gms brown sugar was found. In the search of Rukhsana Shaikh – Applicant in BA 605 of 2024, 26 gms brown sugar was found. Contraband articles were seized and the samples were collected. The applicants came to be arrested.

4. Learned Counsel for the applicants submitted that the provisions contained in Section 21(c) of the Act are not attracted. Nor the provisions contained in Section 29 of the Act have any application in the facts of the case. Commercial quantity of heroine is 250 gms. Total quantity of brown sugar was found in possession of the applicants is intermediate. In all 60 gms of brown sugar was found in possession of applicants – Nasir and Rukhsana. Therefore, the applicants deserve to be enlarged on bail as the interdict contained in Section 37 of the Act does not come into play.

5. Learned APP fairly submitted that the contraband found in possession of the applicant – Nasir falls in the category of heroine, for which commercial quantity is 250 gms. He further submitted that the accused Rukhsana – Applicant in BA 605 of 2024 has antecedents. She has been habitually dealing in the drugs. Attention of the Court was invited to the chart of cases registered against Rukhsana. Therefore, the applicants do not deserve to be enlarged on bail.

6. I have perused the chart. Most of the cases registered against the applicant – Rukhsana were prior to 2010. It appears that since the year 2020,

C.R.No.24 of 2020 for the offences punishable under Sections 27 and 29 of the Act has been registered against her. In these circumstances, as the provisions contained in Section 37 of the Act are not attracted, I am inclined to release the applicants on bail.

7. Hence, the following order :

ORDER

(i) The applications stands allowed.

(ii) The Applicants – Rukhsana Asgar Shaikh and Nasir Dawood Khan be released on bail in C.R.No.1499 of 2023 registered with Bandra Police station on furnishing a PR bond in the sum of Rs.50,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicants shall mark their presence before Bandra Police Station on first Monday of every month between 11 am to 1 pm for a period of two years or till the conclusion of the trial, whichever is earlier.

(iv) The applicants shall not tamper with the prosecution evidence. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Applications disposed.

(N.J.JAMADAR, J.)