



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1630 OF 2024

SACHIN DAYARAM BORSE

..APPLICANT

VS.

UNION OF INDIA AND ANR.

..RESPONDENTS

Mr. Ranjeet H. Patil a/w Mr.Sumitkumar S. Nimbalkar and
Ms.Kalpana V. Chate, for the applicant.

Mr. S. A. Karmakar, APP for the State.

Mr.Siddharth Chandrashekhar, for respondent no.1.

CORAM : M. S. KARNIK, J.

DATE : APRIL 25, 2024

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of the offence
punishable under sections 8(c), 22(c), 23(c), 28 & 29 of the
Narcotic Drugs and Psychotropic Substances Act, 1985
(hereafter 'the NDPS Act' for short) registered vide C.R. No.
APSC/CUS/50/CC/246/2021-22 dated 15/12/2021 with APSC
(customs), Mumbai.

3. An affidavit-in-reply has been filed on behalf of the
respondent no.1 opposing the application.

4. The applicant is the accused no.1. The applicant was

arrested on 20/12/2021. The offence concerns 1850 strips each containing 10 tablets of 100 mg each (18500 tablets of 100 mg each). The contraband is Tramadol Tablets. From the materials on record it can be seen that Tramadol tablets reached the accused no.1 in the following manner.

5. The order was placed by Kamal Verma for sending the medicines for foreign customers. One Neel Patel had introduced Krutik Patel to Kamal Verma and Kaushal Chaturvedi. Kamal Verma asked Krutik Patel to send 18500 tablets of Tramadol to USA at the address provided by him at Rs.27 per tablet. Krutik Patel asked Kaushal Chaturvedi to supply 18500 tablets of Tamadol to him. Kaushal Chaturvedi sent the 18500 tablets of Tramadol to Krutik Patel for Rs.3 per tablet. Krutik Patel forwarded 18500 tablets of Tramadol by private bus to Deep Maheta who is the owner of Jalaram Parcels. Deepa Maheta concealed the said tablets in Farsan/Namkeen and prepared a package. The prepared package was collected by a tempo of Jignesh Patel who is the owner of Sairam Parcels from Deep Maheta. Jignesh Patel forwarded the package to Sachin Borse (Casfreight Solutions) in Mumbai. Sachin Borse handed over

the package to Express Parcel Services. Express Parcel Services produced the package before Customs for examination and clearance. The goods were seized on 15/12/2021.

6. Learned counsel for the respondent submitted that had the goods not been seized, it was bound to UK and USA thereafter. It is pertinent to note that the accused no.3-Deep Maheta has been enlarged on bail by order dated 31/01/2023 passed by the trial Court. Even the accused no.2- Jigneshbhai Patel has been enlarged on bail by the order dated 31/01/2023 by the trial Court. The trial Court has enlarged the accused no.5 Jitesh Pramod Balsara on bail by an order dated 29/01/2022. His KYC documents were used for sending the parcel.

7. So far as the present applicant is concerned, he had earlier filed an application for bail viz. Bail Application No. 1236 fo 2023 which came to be withdrawn on 25/08/2023. Liberty was granted to the applicant to apply after 3 months if the trial does not progress substantially. I am informed that the charge has not been framed yet. The prosecution proposes to examine 70 witnesses. In such circumstances,

the trial is likely to take a long time to conclude.

8. Undoubtedly, the contraband found is of commercial quantity. The rigours of section 37 of the NDPS Act are applicable. Learned counsel for the respondent no.1 was at pains to point out that the applicant has played an important role in the entire chain and that it is the applicant who had handed over the package containing Tramadol tablets to M/s.Express Parcel Services for clearance at International Courier Terminal, Mumbai. It is submitted that the applicant was aware that the parcel contains Tramadol tablets. Learned counsel submitted that there are other materials on record to indicate that the applicant was in receipt of a sum of Rs.2,60,000/- for facilitating the delivery of the package. In support of his submissions, learned counsel relied upon the decisions of the Supreme Court in ¹**Narcotics Control Bureau Vs.Mohit Aggarwal** and that of this Court in ²**Mohammed Aun Javed Haider Sayed Vs. Union of India.**

9. From the materials on record it is seen that the prosecution is mainly relying upon the statement of the

1 2022 SCC OnLine SC 891

2 2021 SCC OnLine Bom 11787

applicant under section 67 of the NDPS Act. The other material is that the applicant is in receipt of Rs.2,60,000/-. The prosecution accuses the applicant for delivery of the package containing the contraband which the applicant knows to be a prohibited substance within the meaning of NDPS Act.

10. It is the case of the prosecution that the package was seized from the airport at the time of examination and clearance. The flow chart shows the movement of the parcel as has been indicated hereinbefore. The source from where the contraband originated is not the applicant. The applicant is one of the accused involved in the chain while facilitating the delivery of the contraband. Accused no.2 who had forwarded the package to the accused no.1- the present applicant has been enlarged on bail. Even the accused no.3 who is alleged to have concealed the contraband in farsan packet and thereafter forwarded the package to the applicant has been enlarged on bail. No doubt, the allegation against the applicant is that he used to hand over concealed package along with fake invoices created by him and fake KYC documents to M/s. Express

Parcels Services for clearance of International Courier Terminal, Mumbai for exporting to different countries. This aspect will have to be considered along with the other circumstances that the applicant is now in pre-trial custody for 2 years and 4 months with no possibility of trial concluding any time soon, as even according to the respondents, 70 witnesses are to be examined; the co-accused from whom the parcel originated are enlarged on bail; there are no criminal antecedents reported against the applicant. These are the circumstances which have prevailed upon me to form an opinion that the rigours of section 37 of NDPS Act can be overcome. It is unlikely that the applicant will commit any offence during the pendency of the trial as there are no criminal antecedents reported against the applicant and moreover I propose to impose stringent conditions while enlarging him on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.

- (b) The applicant-Sachin Dayaram Borse in connection with C.R. bearing F.No.APSC/CUS/50/CC246/2021-22 dated

15/12/2021 registered with APSC (customs), Mumbai shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall report to the office of SIIB at Andheri once a week on every Monday between 11.00 a.m. and 1.00 p.m.

(d) The applicant 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. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall surrender his passport, if any, to the trial Court before his release. If the applicant does not have a passport, he shall file an affidavit to that effect prior to his release.

(h) The applicant shall not leave the State of Maharashtra without permission of the trial Court.

11. The application is disposed of.

(M. S. KARNIK, J.)