

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

BAIL APPLICATION NO.1847 OF 2023

Gulam Rasul Wahid Shaha

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Anuj Singh a/w Santosh Pandey, Anima Mishra, Kajal Upadhyay, Nagesh Avhad & Ritu Singh i/b SBG Law, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent-State.

Mr. Paraji Kondiram Waghmode, P.S.I.-Ayeshanagar Police Station, Malegaon, District-Nashik, present.

**CORAM : MADHAV J. JAMDAR, J.
DATED : FEBRUARY 28, 2024**

P.C.:

1. Heard Mr. Singh, learned Counsel appearing for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	22 of 2023
2	Date of registration of F.I.R.	13/02/2023
3	Name of Police Station	Ayeshanagar Police Station, Malegaon, District-Nashik

4	Section/s invoked	328 of the <i>I.P.C., 1860</i> ; 22 of the <i>N.D.P.S. Act, 1985</i> .
5	Date of incident	31/01/2023
6	Date of arrest	19/03/2023
7	Date of filing Charge-sheet	Charge-sheet is filed.

3. As per the prosecution case, the Applicant and the victim were friends and the Applicant had offered a cigarette to the victim and he also offered him a white coloured powder and made him sniff it after which the victim started vomiting. Therefore he required medical treatment was required to be hospitalised. As per recovery panchanama, it is observed that 5 stripes containing 15 tablets in each strip of 'Alprazolam' were recovered from the possession of the Applicant. The total weight of the pills of Alprazolam tablets found from the possession of the Applicant is around 12 grams. As per the notification specifying small quantity and commercial quantify, serial number 178 therein mentions the narcotic drug Alprazolam and 5 grams is a small quantity and 100 grams is a commercial quantity. In this case, recovery is of about 12 grams of Alprazolam i.e. a small fraction more than the small quantity. The offence registered is under Section 328 of the *Indian Penal Code, 1860* and Section 22 of the *Narcotic Drugs and Psychotropic Substances Act, 1985* ("NDPS Act"). Section 37 of the NDPS Act specifying twin conditions is applicable to the offence under Section 19 or Section 24 or

Section 27A of the NDPS Act. As the offence is under Section 22 of the NDPS Act, rigours of Section 37 of the NDPS Act have no application to the present case.

4. Learned Counsel appearing for the Applicant states that the Applicant is not having any antecedents except for one antecedent under the provisions of the *Arms Act, 1959*.

5. It is an admitted position that investigation has been completed and that Charge-sheet has been filed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

6. The Applicant does not appear to be at risk of flight.

7. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Gulam Rasul Wahid Shaha be released on bail in connection with C. R. No.22 of 2023 registered with the Ayeshanagar Police Station, District-Nashik on his furnishing P.R. Bond of Rs.50,000/- with two solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Ayeshanagar Police Station, District-Nashik once in a week i.e. on every

Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

8. The Bail Application is disposed of accordingly.

9. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]