

Arjun

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

BAIL APPLICATION NO.2365 OF 2023

Mohammad Shoaib Mohammad Salim ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Mahendra N. Sandhyanshiv, for the Applicant.

Mr. P. H. Gaikwad, APP, for the Respondent-State.

Mr. D. J. Badgujar, Pawarwadi Police Station, Malegaon,
present.

**CORAM : MADHAV J. JAMDAR, J.
DATED : JANUARY 19, 2024**

P.C.:

1. Heard Mr. Sandhyanshiv, learned Counsel appearing for the Applicant and Mr. Gaikwad, 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.	217 of 2022
2	Date of Registration of F.I.R.	10/11/2022
3	Name of Police Station	Pawarwadi Police Station, Malegaon, District-Nashik

4	Section/s & Act/s invoked	276 & 328 of the <i>Indian Penal Code, 1860</i> , Sections 18(c), 18(a), 27(A) & 28 of the <i>Drugs and Cosmetics Act, 1940</i>
5	Date of Incident	10/11/2022
6	Date of Arrest	11/11/2022
7	Date of filing of Charge-sheet	09/01/2023

3. As per the prosecution case, the Applicant was selling 15 strips of tablets of Etiron 0.5mg (Etizolam 0.5 Tablets I.P.) without any bill or license. The said medicine is used for depression.

4. It is the contention of Mr. Sandhyanshiv, learned Counsel appearing for the Applicant that there is no material to show that the Applicant was actually selling the said tablets. He submits that as far as the offence under the *Drugs and Cosmetics Act, 1940* is concerned, the maximum punishment is three years and for the offence under Section 276 of the *Indian Penal Code, 1860* (“IPC”) maximum punishment is six months and for the offence under Section 328 of IPC maximum punishment is ten years. He submitted that the factual position on record shows that offence under Section 328 is not attracted.

5. The Applicant was arrested on 11th November 2022 and he is incarcerated for a period of one year and two months.

6. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 9th January 2023. The trial is likely to take a considerably long time. The Applicant does not have any criminal antecedents.
7. The Applicant does not appear to be at 'flight risk'.
8. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Mohammad Shoaib Mohammad Salim be released on bail in connection with C.R. No.217 of 2022 registered with the Pawarwadi Police Station, Malegaon, District-Nashik on his furnishing P. R. Bond of Rs.25000/- with one or 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 there is any change.
- (c) The Applicant shall report to the Pawarwadi Police Station, Malegaon, District-Nashik once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till 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 Court or any Police personnel.

- (e) The Applicant shall not tamper with the evidence and shall not contact or influence the complainant or any witnesses 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.

9. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]