

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

BAIL APPLICATION NO. 2702 OF 2023

Munnakumar Rajbansirai Yadav ...Applicant

Versus

State of Maharashtra ...Respondent

**SAYALI
DEEPAK
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Mr. Kamlesh Satre with Mr. Vikas Chawan, for Applicant.

Mr. S. R. Aagarkar, APP for State- Respondent No. 1.

CORAM:- N. J. JAMADAR, J.

DATED:- 21st FEBRUARY, 2024.

PC:-

1) Heard the learned Counsel for the applicant and the learned APP for State.

2) The applicant, who has been arraigned in connection with CR No. 675 of 2022, registered with Kashimira Police Station for the offences punishable under Sections 21 (c) and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 ("the Act, 1985") and Sections 420, 465, 468, 471 and 473 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code"), seeks to be enlarged on bail.

3) Ten persons have been arraigned in CR No. 675 of 2022. The indictment against the accused is that on 27th September, 2022, while the Kashimira police were on patrolling, at about 4.00 pm, near Sharmila Pagi Compound, Kashimira, a Tempo bearing registration No. MH-48-CB-4402 and Car bearing registration No. MH02-BY-3422 were found parked adjacent to each other. The police party noticed that the goods from the Tempo were being transferred to the car. The first informant entertained suspicion. Upon enquiry, the persons, who were at the wheel of the said vehicles, gave evasive answers. The police party checked the goods. It transpired that there were 32 boxes containing bottles of RX Chlorpheniramine Malete and Codeine Phosphate Syrup PHENSIREST SYRUP COUGH 100 ml each. There were 36 boxes in the car containing RX Chlorpheniramine Malete and Codeine Phosphate Syrup RECOKUF COUGH SYRUP 100 ml each. It transpired that accused Nos 1 and 2, in whose possession the said contraband articles were found had taken delivery of the boxes from Om Logistics Courier Company. To facilitate the procurement of the contraband, false Challans were prepared. Zameer Rashid Shaikh – (A-3) had affixed a bogus stamp on those Challans.

4) During the course of investigation, the complicity of the applicant was revealed. Co-accused – Mayankkumar Rungatha (A-7) and Ritik @ Rajabhaiyya Rajesh Khanna (A-8) had allegedly procured the contraband articles with the assistance of Shashank Gopalpati Tripathi (A-5), who was providing Courier services. Co-accused- Nileshkumar Santosh Singh (A-9) was a former employee of Om Logistics, through which the contraband articles were procured. The applicant was allegedly working with Om Logistics.

5) At the outset, the learned Counsel for the applicant submitted that co-accused Mayankkumar Rungatha- Accused No. 7, Ritik @ Rajabhaiyya Rajesh Khanna – Accused No. 8, Nileshkumar Santosh Singh – accused No. 9 and Zameer Rashid Shaikh – Accused No. 3 have already been enlarged on bail by this Court. The applicant is similarly circumstanced and is entitled to the same dispensation.

6) Attention of the Court was invited to the order dated 1st February, 2024, whereby the Mayankkumar Rungatha (A7), Ritik @ Rajabhaiyya Rajesh Khanna (A8) and Nileshkumar Santosh Singh (A9) were ordered to be released on bail.

7) The role attributed to the applicant appears to be that of being an employee of Om Logistics Courier Company through

whom the contraband articles were allegedly transported. While releasing the co-accused on bail, this Court had, *inter alia*, observed as under:-

“...10. Prima facie, the interdict contained in Section 37 of the NDPS Act, 1985, does not operate qua the applicants. Indisputably, the applicants were not found in possession of the contraband articles. The statement of a Receptionists of a Hotel that prior to five days of the occurrence, applicants - Mayankkumar (A-7) and Shashank Tripathi (A-5) stayed together in the Hotel is not prima facie sturdy enough to bear the weight of the accusation of conspiracy. As regards the applicants - Ritik @ Rajabhaiyya Rajesh Khanna (A-8) and Nileshkumar Santosh Singh (A-9), the material pressed into service does not appear to be adequate to make out a prima facie case. I find substance in the submission on behalf of the applicants that whether there is a nexus between the applicant and the alleged offences is a matter for adjudication at the trial.

11. The learned APP fairly submitted that there are no antecedents to the discredit of any of the applicants. Therefore, an inference becomes justifiable that the applicants will not indulge in identical offenses, if released on bail.

12. Moreover, in view of the release of the co-accused - Zameer Rashid Shaikh – (A-3) on bail, the claim for parity also becomes sustainable.

13. Applicant- Mayankkumar (A-7) and Ritik @ Rajabhaiyya Khanna (A-8) have been in custody since 12th November, 2022 and applicant Nileshkumar Singh (A-9) has been in custody since 26th January, 2023. Having regard to the nature of the accusation, the number of accused and the evidence which the prosecution may be required to adduce, in this case, as well as the large pendency of the cases, it is unlikely that the trial can be concluded within a reasonable time. Since investigation is complete for all intent and

purpose, further detention of the applicants does not seem warranted...”

8) Evidently, the applicant was not found in possession of any contraband article. Therefore, the aforesaid reasons which weighed with this Court in releasing the co-accused apply with equal force to the claim of the applicant for bail.

9) I am, therefore, inclined to exercise the discretion in favour of the applicant.

10) Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Munnakumar Rajbansirai Yadav be released on bail in CR No. 675 of 2022 registered with Kashimira police station, Thane, for the offences punishable under Sections 21 (c) and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 420, 465, 468, 471 and 473 read with Section 34 of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(iii) The applicant shall mark his presence at the Kashimira Police Station, Thane on the first Monday of every month between 11.00 am to 1.00 pm, till the framing of the charge.

(iv) 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.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep them updated, in case there is any change.

(vi) The applicant shall not indulge in identical activities for which they has been arraigned in this case.

(vii) The applicant shall attend the trial regularly.

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

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of 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.

[N. J. JAMADAR, J.]