

Sayali Upasani

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

BAIL APPLICATION NO. 3317 OF 2023

Sadanand Waman Rane @ Rane Mama ...Applicant

Vs.

State of Maharashtra ...Respondent

**SAYALI
DEEPAK
UPASANI**

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Mr. Gorakh Hanumant Liman, for Applicant.

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

Mr. Palve, PSI, ANC, Ghatkopar Unit, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 13th MARCH, 2024

PC:-

1) The applicant, who is arraigned in CR No. 99 of 2021 registered with Anti Narcotic Cell for an offence punishable under Sections 22 (c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act, 1985"), has preferred this application to enlarge him on bail.

2) On 1st December, 2022, while the Anti Narcotic Cell Police were patrolling, accused No.1-Mohammad Akram Mohammad

Arshad Shaikh was found moving in suspicious circumstances along with a plastic gunny bag. He was accosted. In the search 120 bottles of EMCOFFTM Cough Syrup, 100 ML containing Codeine Phosphate were recovered. Pursuant to the discovery made by Arshad Shaikh – A1, 3600 bottles of EMCOFFTM Cough Syrup 100 ml were recovered from Room No. A-34, Nassem Manjil, Attar Galli, Mumbai.

3) The investigation further revealed that Arshad Shaikh – A1 had obtained those contraband articles from Lokesh Jain-A2. Lokesh Jain – A2 came to be apprehended. Further investigation revealed that Lokesh Jain – A2 had procured the contraband articles and supplied the same to Sadanand Rane- A4 - the applicant. The applicant came to be arrested while he was in custody in CR No. 1604 of 2022, registered at Dahisar Police Station for an offence punishable under Section 22 of NDPC Act, 1985.

4) The learned Counsel for the applicant submitted that no contraband article was recovered from the possession of the applicant. The applicant has been roped in on the basis of the statement of co-accused – Lokesh, who has been granted bail by this Court by an order dated 19th December, 2023. There is nothing to connect the applicant with the alleged recovery of the

contraband articles from accused No. 1. Therefore, the applicant be released on bail.

5) The learned APP resisted the prayer for bail. It was submitted that there is material to indicate that at the instance of Lokesh- A2, the contraband articles were delivered to the applicant. Statement of Rajesh Yadav and Irfan Shaikh, were pressed into service. Rajesh and Irfan stated that on the instructions of Lokesh- A2, they had delivered the boxes containing Cough Syrup to the applicant. The learned APP further submitted that the investigation has revealed that the applicant had, in turn, delivered the contraband articles to other persons, who were involved in illicit drug trade.

6) Prima facie, no contraband article was recovered from the possession of the applicant. The applicant has allegedly purchased the contraband articles from Lokesh-A2. While releasing Lokesh-A2 on bail, this Court has ascribed reasons reflecting upon defective investigation as well.

7) At this stage, the only material against the applicant appears to be the statement of two persons, who claimed that they had delivered boxes containing Cough Syrup to the applicant at the instance of Lokesh- A2, who has been released on bail.

8) In this view of the matter, whether the applicant can be roped in by invoking the provisions contained in Section 29 of the NDPS Act, 1985, appears debatable. Since Lokesh – A2 who is alleged to be the principal supplier of contraband articles, is released on bail, the applicant is entitled to the same dispensation.

9) So far as the antecedents of the applicant, it appears that he has been arraigned in CR No. 1604 of 2022. However, since no prima facie case is made out against the applicant in the instant case, the antecedents are not such as to dissuade the Court from exercising the discretion in favour of the applicant. Resultantly, the rigour contained in Section 37 (1) (b) (ii) can be said to have been overcome.

10) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Sadanand Waman Rane @ Rane Mama be released on bail in CR No. 99 of 2021 registered with Anti Narcotic Cell for an offence punishable under Sections 22 (c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, on

furnishing a P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at the Anti Narcotic Cell on the first Monday of every month between 10.00 am to 12.00 noon for a period of three years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) The applicant shall not indulge in the identical activity for which he has been arraigned in this case.

(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.]