

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

ANTICIPATORY BAIL APPLICATION NO. 3550 OF 2023

Shahid Sadik Pathan

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Tabish Mooman a/w. Sadiya Khan for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 10 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 933 of 2022 registered at Kondhwa Police Station, under sections 8(c), 22(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'N.D.P.S. Act').

2. The prosecution case is that, on 15.09.2022 the Anti Narcotic Cell, Crime Branch, Pune left their office for investigating into the offence involving Narcotic Drugs and psychotropic substances. They were patrolling near Shivneri Nagar, Galli No.1, Kondhwa Khurd, Pune, at around 4.40a.m. They saw one four wheeler parked there. There were five persons inside that car. As

the informant and others approached that car, they tried to start the car, but the police officers stopped them. They conducted search after complying with the provisions under N.D.P.S. Act. It was found that all these persons were having Mephedrone in their possession weighing from 5gm 5 miligram to 1gm 6 miligram. The contraband was seized and the accused were arrested. The investigation was carried out and the charge-sheet is filed. The applicant is apprehending his arrest because the investigating agency is searching for him.

3. Learned counsel for the applicant submitted that the raid was conducted on 15.09.2022. The investigation is already over and the charge-sheet is already filed. In the entire charge-sheet there is no reference to the name of the present applicant. He is not even shown as an absconding accused. The applicant was always available at his residence at Kondhwa. He had never absconded and, therefore, after more than one year and four months, the applicant's custodial interrogation is not necessary.

4. Learned APP opposed this application. She produced

the case diary before the Court. It is a contemporaneous document maintained by the investigating officer regarding the investigation carried out during that period. The case diary dated 16.09.2022 records the information supplied by the arrested accused Nadim Memon, Vishal Ahiwale, Siddiq Shaikh, Aman Walge and Vikram Gore. All of them had consistently stated that they started from Kondhwa. They went to Lonavala. The applicant joined them. He took them to Kurla. The contraband was brought from there. The information given by the arrested accused consistently implicates the present applicant.

5. At this stage, the investigating agency has definite material about the involvement of the applicant as the supplier of the contraband. At this stage, the investigating agency can only investigate on the basis of information supplied by the arrested accused. The Investigating Agency's effort to arrest the applicant is not without basis. His custody, therefore, is absolutely necessary. He was the supplier of the contraband seized from the arrested accused. In that view of the matter, custodial interrogation of the applicant is necessary.

6. The application for anticipatory bail is, therefore, rejected.

(SARANG V. KOTWAL, J.)