

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

BAIL APPLICATION NO. 809 OF 2024

Seema @ Reshma Arif Shirgaonkar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Shreerat Kamath a/w Ms. Puja Yadav, for Applicant.
- Mr. Tanveer Khan, APP for Respondent.
- Mr. Prashant M. Hatim, PSI, Shivajinagar Police Station, present.

CORAM : MANISH PITALE, J.

DATE : 18th July, 2024.

P. C. :

1. Heard Mr. Shreerat Kamath, learned counsel for the applicant and Mr. Tanveer Khan, learned APP for the State.

2. The applicant is arraigned as accused No.4 in connection with offences registered under Sections 8(c), 22(a) and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985. The FIR in the present case bearing No.0346 of 2023, dated 08th April, 2023, was registered at Police Station Shivaji Nagar, Mumbai. Initially, only three persons were named as accused in the present case and the name of the applicant along with other accused persons was added subsequently.

3. The entire exercise in the present case was carried out by the respondent authorities on the basis of secret information. The *panchnamas* on

record indicate that the accused No.1 was apprehended with the contraband and this led to the authorities undertaking further investigation into the matter.

4. On the last occasion, this application was heard for substantial period of time, but it had to be adjourned for the reason that the learned APP took some time to apprise this Court about the material linking the applicant with the offence in question. The learned counsel for the applicant had referred to the material on record and it was contended that there was nothing incriminating against the applicant, particularly because the investigating authority had failed to establish link between the applicant and the offence in question, as none of the statements or *Nivedan Panchnamas* of the accused recorded during the course of investigation indicated as to what prompted the investigating authority to reach out to two couriers / Money Transfer Agents in whose statements reference is made to a mobile number, which is said to be belonging to the applicant.

5. Today when the application was taken up for further hearing, apart from material on record, the applicant relied upon certain Call Details Records (CDRs) and a purported letter written by the investigating authority to the two couriers, which led to their statements being recorded.

6. The learned counsel for the applicant has reiterated the

contentions raised on the last occasion and he emphasizes that the *Nivedan Panchanamas* on record in no way connect the applicant to the offence in question. It is emphasized that there is no reference to the applicant in the statement of accused No.3, when he described the interaction that took place at the office of the transporter through whom the contraband was allegedly being transported, as compared to the statement of the supervisor of the office of the said transporter. It is further reiterated that there is no connection established by the investigating authority in the charge-sheet between the statements and *Nivedan Panchnamas* on record on the one hand and the statements of the couriers recorded during the course of investigation.

7. This Court has considered the entire material on record in the light of the rival submissions. In the present case, accused No.1 was apprehended with the contraband and accused No.2 is alleged to be the supplier, who has supplying the contraband from Gujarat. In the *Nivedan Panchanama* of accused Nos.2 and 3, there is no material that connects the applicant with the offence in question. In fact, the second *Nivedan Panchanama* of the accused No.2 appears to be in a shadow of doubt because in the *Nivedan Panchanama* itself at one place the name of accused No.1 has featured.

8. The material on record that appears to link the applicant with the

offence in question is the statement of supervisor of Bhavna Roadways i.e. transporter, wherein he stated about a lady named Shobha whose name was actually Seema i.e. applicant before this Court. He stated that she used to visit of the office of the said transporter along with other persons to collect the contraband. The reason why the statement of the said supervisor is recorded is that accused No.3 and *Nivedan Panchanama* is claimed to have stated about the manner in which the said transporter was engaged, while transporting such contraband. It is significant that the *Nivedan Panchnama* of accused No.3 nowhere refers to the presence of applicant as is alleged by the supervisor of the said transporter.

9. The other material on record is in the form of statements of the aforesaid two couriers, one located in Gujarat and the other at Mumbai. Their statements were recorded on 20th April, 2023 and in such statements details have been given about amounts transferred allegedly in lieu of supply of the contraband. In their statements, the name of the applicant along with mobile number is featured.

10. But, there is presently nothing on record to indicate as to how the investigating authority reached out to these two couriers and recorded their statements. None of the accused persons, much less accused Nos.2 and 3 revealed their names or any such *modus operandi* of transfer of amounts in

exchange for contraband. In any case, there is scant material on record to link such transfers of amounts to supply of contraband from Gujarat.

11. As recorded in the order dated 10th July, 2024, the applicant cannot be said to be involved in the present offence, merely on the basis that she is the sister of accused No.1 and that accused No.3 is her nephew. The applicant is a lady, who has remained behind bars since 15th June, 2023, which is for a period of more than one year. There are no criminal antecedents of the applicant and in that light, this Court is inclined to allow the present application.

12. In view of the above, the application is allowed in the following terms :

- (A) The applicant shall be released on bail in connection with FIR No.0346 of 2023, dated 08th April, 2023, registered at Police Station Shivaji Nagar, Mumbai, on furnishing PR bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.
- (B) The applicant shall not tamper with the evidence in any manner. She shall not influence the informant, witnesses or any other persons concerned with the case.
- (C) The applicant shall upon release immediately inform the

Investigating Officer of her contact number and residential address and update the same in case of any change.

13. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

14. It is further made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application is disposed of.

(MANISH PITALE, J.)