

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2201 OF 2024

Laynel Lezli Mascarenhas ... Applicant.
V/s.

The State of Maharashtra ... Respondent.

Mr Anosh Londhe, Advocate for Applicant
Shri P.H.Gaikwad-Patil, APP for the State.
Mr Ravindra Rokade, Head Constable, Pune City

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 30, 2024.

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1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.137 of 2023, registered with Wanwadi Police Station, Pune for the offences punishable under Sections 8(c), 22(a)(c), 20(b), 20(b)(ii)(A), 20(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act" for short).
3. In the present matter, though the quantity of contraband allegedly seized from the applicant is a commercial quantity, however, the learned counsel for the applicant has pointed out

certain discrepancies which create doubt about the prosecution story. It further gives ground to believe that the applicant is not involved in the alleged offence.

4. As per the prosecution story, the applicant was found in possession of 13 gram 6 miligram MDMA tablets, 16 gram 3 miligram MD, 6 miligram LSD, 9 miligram Mashrum, 63 gram Charas, 39 gram Hashish.
5. The applicant was intercepted on 17/03/2023 at 07:20 p.m. and thereafter the search was taken and the above referred contraband were allegedly recovered from the applicant.
6. The photographs taken from CCTV footage of the apartment where the applicant is staying and shown by the applicant indicate that on the relevant date the police were with the applicant at 06:30 p.m. and they were up to 07:53 pm. in the said society.
7. Furthermore, there is no compliance of the provisions of Section 52A of the NDPS Act as in the present matter though the seizure was made on 07/03/2023, the application was made to the learned Magistrate for carrying out inventory on 17/04/2023 and inventory was prepared and samples were drawn on 24/04/2023 i.e. after more than a month. Thus, as I have observed that the discrepancies, *prima-facie*, are such that it

creates reasonable doubt about the involvement of the applicant in the alleged offence.

8. In the above referred backdrop, the learned APP strongly opposed the application and tried to point out that the offence is serious and proper procedure was followed. However, considering the above referred observations, since there is a reasonable doubt that the applicant is not involved in the alleged offence and furthermore, as there are no antecedents against the applicant, it cannot be said that there is possibility that the applicant would commit similar offence, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) The Criminal Application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.137 of 2023, registered with Wanwadi Police Station, Pune for the offences punishable under Sections 8(c), 22(a)(c), 20(b), 20(b)(ii)(A), 20(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on furnishing P.R.Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall attend the concerned Police Station on first day of every month between 10:00 a.m. and 11:00

a.m., till conclusion of the trial, except on the date of trial.

- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) Liberty is granted to the State to apply for cancellation of bail if the applicant commits similar offence or breaches any condition for grant of bail.
- vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

The Criminal Application is **disposed of** accordingly.

(ANIL S. KILOR, J)