

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4355 OF 2024

Javed Gafoor Shaikh @ Bobda @ Jahangoor ... Applicant

Vs.

Union of India and another ... Respondents

Ms. Alisha Parekh a/w. Mr. Taraq Sayed, Ms. Ashwini Achari and Mr. Anish Pereira for Applicant.

Ms. Swara Vichare i/b. Ms. Manisha Jagtap for Respondent No.1 - NCB.

Mr. Balraj B. Kulkarni, APP for Respondent No.2 - State.

CORAM : MANISH PITALE, J.

DATE : NOVEMBER 29, 2024

P.C. :

. Heard Ms. Parekh, learned counsel appearing for the applicant and Ms.Vichare, learned counsel appearing for respondent No.1.

2. In this case, the applicant was arrested on 14.11.2021 in connection with C.R.No.10 of 2021 registered at the instance of the Narcotics Control Bureau, Mumbai Zonal Unit, Mumbai, for offences allegedly committed on 05.02.2021. The applicant has been behind bars since then.

3. The learned counsel for the applicant, at the outset, points out that the Supreme Court granted bail to co-accused person by order dated **09.07.2024** passed in **SLP (Crl.) No.2964 of 2024** (*Ibrahim Gafoor Shaikh @ Jahangoor Vs. Intelligence Officer and another*). It is submitted that the role of the said co-accused person was identical to the role alleged against the applicant herein, which was of supplying the alleged contraband in the form of codeine cough syrup recovered from the co-accused person. It is emphasized that even the said co-accused

person from whom the contraband was allegedly recovered was granted bail by order dated **18.09.2024** passed by this Court in **Criminal Bail Application No.1273 of 2024** (*Zaquir Hussain Abdul Rehman Shaikh @ Bablu Patriwala Vs. Union of India and another*). Therefore, the present bail application is being pressed on the ground of parity.

4. The learned counsel for respondent No.1 submits that there is enough material to indicate the involvement of the applicant in the present case. But, it cannot be disputed that the co-accused persons have been granted bail in the aforesaid manner by this Court and the Supreme Court.

5. Upon perusal of the material on record, this Court is convinced that the present application deserves to be allowed. A perusal of the order of the Supreme Court in the case of **Ibrahim Gafoor Shaikh @ Jahangoor Vs. Intelligence Officer and another** (*supra*) shows that one of the major factors found in favour of the applicant accused therein was that, he had suffered incarceration for a period of about 3 ½ years and the charges were yet to be framed. The Supreme Court allowed the application on the aforesaid ground. It is evident that the said ground is available to all the accused persons in the present case.

6. The applicant, in the present case, was arrested on 14.11.2021, thereby showing that he has remained incarcerated for a period of more than three years.

7. Apart from this, it is found that the co-accused person from whom contraband was recovered was also granted bail by the aforesaid order passed on 18.09.2024. In the said order, apart from referring to the aspect of long period of incarceration and there being remote possibility of the trial being completed within reasonable period of time, this Court found *prima facie* case in favour of the said co-accused person as some

doubt was indeed successfully raised with regard to the manner in which the contraband was recovered.

8. In view of the above, the application deserves to be allowed. Accordingly, it is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with C.R.No.10 of 2021 registered at the instance of the Narcotics Control Bureau, Mumbai Zonal Unit, Mumbai on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount;
- (B) The applicant shall attend the office of NCB, Mumbai Zonal Unit, Mumbai on first Monday of every month between 10:00 a.m. and 12 noon;
- (C) The applicant shall appear before the trial Court, except when exempted for reasons to be recorded in writing. He shall cooperate with the trial Court for expeditious disposal of the trial;
- (D) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (E) The applicant shall deposit his passport, if any, before the concerned Court within a week of his release on bail;
- (F) Upon being released on bail, the applicant shall immediately, and in any case within two weeks, furnish the details of his active mobile number and residential address to the trial Court and update about the same, if there is any change.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It

is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

10. The bail application stands disposed of accordingly.

(MANISH PITALE, J.)

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