IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.2369 of 2024

Aviraj Rajender Yadav
Age : 26 yrs Occ: service
R/o : Room No.2 Sai darshan,
Near sec.7, Naer Ganga Vihar,
Shantinagar, Thane …... Applicant.

Vs.

The State of Maharashtra
(Vide CR No.1289/2024
Shantinagar Police Station
dated 14.06.2024) …. Respondent.

Mr Rajendra S. Bidkar for the applicant.
Mr Arfan Sait, APP for Respondent/State.
API Sunil Tarmale, Anti-Extortion cell, Thane is present.

Coram : R.N.Laddha, J.

Date : 23 August 2024.

P.C. :

Heard Mr Rajendra Bidkar, the learned Counsel for the applicant and Mr Arfan Sait, the learned Additional Public Prosecutor for the respondent/State.

2. The applicant apprehends arrest in connection with CR No.1289 of 2024, registered at Shanti Nagar Police Station,

Bhiwandi, for the offences punishable under Sections 8 (c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985. By the present application, the applicant seeks pre-arrest bail.

3. According to the prosecution, on 13 June 2024, a patrolling officer approached co-accused, Anil Kumar Prajapati, who was acting suspiciously. Upon searching him, 1.720 kg of Charas was found in his possession. During interrogation, it was revealed that Prajapati had purchased 6 Kg of Charas from co-accused, Mustafa, and subsequently sold 2 Kg Charas to co-accused, Shambabu and 2.250 Kg to the present applicant. According to prosecution, the applicant had previously bought a large quantity of Charas from the arrested co-accused, Prajapati.

4. Mr Rajendra Bidkar, the learned Counsel for the applicant, submits that there is no material linking the applicant to the crime, except for the statement of the co-accused's. The alleged contraband has already been seized from the co-accused, and emphasises the applicant's promising future as a young, gainfully employed individual. Regarding financial transactions between the applicant and the co-accused, the learned Counsel explains that they were

merely loans extended for a marriage ceremony. The learned Counsel asserts the applicant's innocence and expresses willingness to comply with any conditions imposed by this Court.

5. On the other hand, Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State, contends that the Call Detail Records (CDRs) reveal a pattern of frequent communication between the applicant and the co-accused, indicating a collaborative relationship. Furthermore, financial transactions between the applicant and the co-accused suggest a deeper involvement. The seized contraband is of commercial quantity, and the ongoing investigation aims to unravel the entire supply chain. The offence is serious in nature, poses a threat to society. The learned APP further submits that the applicant's custody is essential to uncover the full extent of their involvement and dis-mental the supply chain.

6. It is settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail

must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straight jacket formula cannot be applied. This power must be exercised with caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in ***Shrikant Upadhyay and Ors. v. State of Bihar and Anr., 2024 SCC OnLine SC 282.***

7. Upon perusing the records, *prima facie,* there is material suggesting the applicant's involvement in the present crime. The co-accused, have named the applicant as the purchaser of a commercial quantity of contraband articles. The CDRs reveal communication between the applicant and co-accused, while the bank statements show financial transactions between them. The ongoing investigation aims to uncover a large-scale network engaged in illegal contraband sales. Considering the severity of the offence and its societal impact, the custodial interrogation of the applicant would be necessary. As a result, the application stands rejected.

[R. N. Laddha, J.]