

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

Anticipatory Bail Application No.3096 of 2024

Anku

Age : 38 years, Occ:Housewife

having her residential add at

Flat No.505, 5th floor, Royal

Ensign Apt, Prithviraj Road,

Opp Birla Auditorium, Near

Statue Circule, C-Scheme,

Jaipur-302001.

..... Applicant.

Vs.

Narcotic Control Bureau,

Mumbai Zonal Unit, Mumbai. Respondent.

Dr Abhinav Chandrachud a/w Saurish Shetye a/w Pavan Pandey a/w Pranit Kulkarni a/w Ravindra Pawar a/r Pravin Pandey a/w Rishabh Jain a/w Sneha Mishra a/w Kalpana Katkar a/w Kajal Mishra i/by Premkumar Pandey for the applicant.

Ms Neha Patil, Special Public Prosecutor for respondent/NCB.

Mr Swapnil Pednekar, Additional Public Prosecutor.

Coram : R.N.Laddha, J.

Date : 19 December 2024.

P.C. :

Heard the learned Counsel for the parties.

2. By present application, the applicant seeks pre-arrest bail in connection with CR No.21 of 2024 registered with the Narcotic Control Bureau, Mumbai, for the offences punishable under Sections 8(c) r/w 21(b) 28 and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

3. It is the case of the prosecution that on 27 August 2024, the Officer of respondent/NCB received specific information about a parcel kept at the office premises of M/s DTDC Express Ltd., located at Luthia Rubber factory, New Tejpal Industrial Estate, Sakinaka, Andheri, Mumbai. It was reported that the parcel, addressed to the applicant and sent by the co-accused, Hamdan Khan, contained contraband material, Cocaine. Consequently, a raid was conducted by the NCB officials authorised under the NDPS Act, resulting in the seizure of 14 gms of Cocaine under a Panchnama.

4. The learned Counsel, appearing on behalf of the applicant, submits that co-accused Hamdan Khan was arrested and subsequently released on bail. According to Hamdan Khan's statement, the seized contraband was supplied to him by another co-accused, Yasin, for booking

and sending it to the consignee. Following Yasin's instructions, Hamdan booked the parcel. The learned Counsel further submits that immediately after receiving the notice, the applicant responded with a letter dated 27 September 2024. However, during this time, the applicant learnt that the respondent made attempts to conduct a house search in the applicant's absence. The applicant has no direct or indirect connection with the arrested accused, Hamdan Khan, and was not present at the time of Hamdan's arrest. There are no incriminating WhatsApp chat records or payment records with the arrested accused to suggest the applicant's involvement in the alleged crime or any connection with Hamdan Khan. The only link between the applicant and the arrested accused is the statement of the co-accused, which lacks details. The applicant's name is not mentioned in the FIR. The learned Counsel highlights that the arrested co-accused has already been granted bail. Furthermore, the apprehended co-accused has not implicated the applicant, making the applicant's custodial interrogation unnecessary since the contraband articles have been recovered.

5. On the other hand, the learned Special Public

Prosecutor submits that during the investigation, the arrested co-accused implicated another co-accused, who subsequently implicated the applicant. The learned Special Public Prosecutor emphasises the seriousness of the offence and the necessity of the applicant's custody to unravel the entire transaction chain. Furthermore, the learned SPP contends that if the applicant is granted pre-arrest bail, she may tamper with the prosecution evidence/witnesses.

6. Upon perusing the records, it appears that the arrested co-accused implicated another co-accused, who in turn revealed the applicant's involvement. The only connection between the applicant and the crime is the co-accused's statement, which lacks specific details. The contraband has already been seized, and the co-accused who handed over the parcel containing the alleged contraband has already been arrested and released on bail. The Chemical Analyzer's report is still awaited. The applicant responded to the notice received from the respondent's office. The seized alleged contraband is not of commercial quantity. There are no incriminating WhatsApp chats, payment records, or Call Records with the arrested accused to indicate the applicant's involvement in the alleged crime. The applicant is a woman

with no criminal antecedents. Therefore, without delving into the merits of the case, this Court finds that the applicant is entitled to the relief of anticipatory bail. To address concerns about evidence tampering or witness influence, appropriate conditions can be imposed. Hence, the following order.

ORDER

(i) In the event of the applicant's arrest in CR No.21 of 2024, registered with the Narcotic Control Bureau, Mumbai, she be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the office of the investigating agency as and when required.

(iii) The applicant, herself or through any other person, shall not indulge in any activity that would tamper with the evidence or influence any witnesses.

7. The application stands disposed of accordingly.

[R. N. Laddha,J.]