

Ajay

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

CRIMINAL BAIL APPLICATION NO. 4742 OF 2024

Kishankumar Premkumar Gupta	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Ms. Leena Patil, Advocate for Applicant.
 - Ms. Megha S. Bajoria, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 27, 2025.

P.C.:

1. Heard Ms. Patil, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No.03 of 2021 registered with Nodal Cyber Police Station for the offences punishable under Sections 27 of the Drugs and Cosmetics Act, 1945; Sections 469, 420, 476, 482, 336 and 120-B of the Indian Penal Code, 1860; Sections 66(c) and (d) of the Information Technology Act, 2000 and Section 102 of the Trade Marks Act, 1999.

3. Applicant is incarcerated since 12.08.2021 in the present crime. Learned Advocate for the Applicant informs the Court that the case has been merely committed to the Trial Court / Sessions Court

and thereafter it is at a complete standstill. Allegations against the Applicant are that during the COVID-19 pandemic period the Applicant falsely claimed to be an official distributor of CIPLA Company opened WhatsApp profiles and portrayed himself to be a distributor and sold the drug Remdesivir.

4. Ms. Patil, learned Advocate for Applicant would persuade the Court to consider that on *prima facie* consideration the invocation of the provisions of Section 26 of the Drugs and Cosmetics Act, 1945 would not be applicable for indicting the Applicant. She would submit that the charge-sheet in that case would support the submissions made by her. She would persuade the Court that if at all the case of the prosecution is taken to highest, it would be a case of cheating whereas even considering the offences under the Information Technology Act and Trade Marks Act, the maximum punishment for the same goes upto 7 years. She would therefore persuade the Court to consider the fact that Applicant is in incarceration for the past 3 years, 7 months and 15 days pending trial and the probability of the trial not commencing or completing in the near foreseeable future would entitle the Applicant for grant of bail.

5. She would submit that Applicant is / was a taxi driver by profession and the real perpetrator of the crime who has siphoned off the amount during the time of sale of the said drugs Remdesivir during

COVID-19 period is a person called Vijay Benedict who despite having been investigated upon by the prosecution by issuing notice under Section 41A of the Code of Criminal Procedure, 1973 has not cooperated with the investigation, rather he is absconding.

6. The aforesaid submissions made by the learned Advocate for Applicant persuades the Court to consider the Application for bail considering his long incarceration.

7. List the Bail Application on Board on **08th April, 2025** at **02:30 p.m.**

[MILIND N. JADHAV, J.]

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