

Shabnoor

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

BAIL APPLICATION NO. 5215 OF 2024

Karan Sundeep Mehra

... Applicant

V/s.

The Special Intelligence & Investigation
Branch, Customs, Mumbai & Anr.

... Respondents

Mr. Datta H. Pawar a/w Ms. Sonali H. Pawar and Mr.
Karan M. Chaudhary for the applicant.

Mrs. Megha S. Bajoria for respondent No.1 (UOI).

Ms. Supriya Kak, APP for the State – respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks his release on bail in connection with Special Case No.1829 of 2024, registered with SIIB (APSC), Mumbai, for offences punishable under Sections 20(b)(ii)(A), 23(a), 27, 29, and 35 read with Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”).

2. As per the case of the prosecution, upon receipt of credible information, one consignment imported in the name of the present applicant, and described as a parcel of clothes, was intercepted. A detailed panchnama and seizure memo were prepared by the officers concerned. After completing the required formalities, the Customs Officer reached the Azad Nagar Post Office and waited

there to identify the person who would come to receive the said parcel.

3. Initially, the co-accused Akshay approached the post office and inquired about the parcel. The postman informed him that a certain amount of customs duty was payable. When the co-accused Akshay attempted to pay via Google Pay, the postman refused and asked for payment in cash as digital payment was not accepted. After around 10 minutes, the co-accused returned with cash. When the postman asked for identity proof, Akshay stated that the parcel was in his brother's name and that he had the authority to collect it.

4. Subsequently, the co-accused Akshay returned at around 10:30 a.m., this time accompanied by the present applicant. The applicant signed the delivery receipt, and Akshay paid the customs duty of ₹2,023/-. At that point, both the applicant and the co-accused were apprehended by the officers of SIIB/APSC, along with the parcel.

5. Thereafter, a search was conducted at the residence of the co-accused Akshay, where commercial quantity of contraband substances was found. However, during the search conducted at the applicant's residence, nothing incriminating was discovered. The applicant was arrested on 9 April 2024. A bail application filed by him earlier came to be rejected by the learned Special Court, hence the present application is filed before this Court.

6. Learned Advocate for the applicant has submitted that from the record it is evident that the co-accused Akshay had paid the

customs duty and also handled the parcel. It is further pointed out that the commercial quantity of ganja and other contraband was recovered from the house of Akshay alone. It is argued that the parcel was addressed in the name of the applicant, and hence, when Akshay was not permitted to collect it, he called the applicant, who came and signed for the parcel. There is no material to show that the applicant had knowledge of the contraband allegedly contained in the parcel.

7. The learned Advocate has also drawn attention to the fact that the applicant has been in custody since 9 April 2024, and therefore, has undergone incarceration of more than one year. It is submitted that the applicability of Section 20(b)(ii)(A) and other provisions of the NDPS Act to the applicant's case will be examined during the course of trial. He thus prayed that the applicant may be released on bail, subject to suitable conditions.

8. On the other hand, the learned APP strongly opposed the application. She submitted that the applicant, in his own statement, has admitted to having knowledge of the contents of the parcel. It is also pointed out that the applicant has disclosed his role in the sale of contraband substances. The learned APP has relied upon Section 29 of the NDPS Act, to submit that the applicant is liable for acts of conspiracy and abetment, especially since commercial quantity of contraband was found from the premises of co-accused Akshay, with whom the applicant was directly involved in receiving the parcel. Therefore, it is argued that the applicant does not deserve to be released on bail at this stage.

9. Upon hearing the submissions of both sides and on perusal of the charge-sheet and material placed on record, certain aspects emerge which deserve consideration.

10. Firstly, the role attributed to the present applicant is limited to the act of accompanying the co-accused to the post office and signing the delivery receipt of the parcel in question. The primary connection of the applicant with the contraband appears to be based on the fact that the parcel was addressed in his name. However, it is not the case of the prosecution that the contraband was seized from the applicant's physical possession or from his residence.

11. Secondly, the statement of the postman as well as the sequence of events suggests that the co-accused Akshay had initially gone to collect the parcel, and the present applicant was later brought by Akshay only because the parcel bore his name. The co-accused Akshay not only paid the customs duty but was also found in possession of commercial quantity of contraband at his residence. No such recovery has been made from the applicant.

12. Thirdly, the applicant has been in custody since 9 April 2024 and has undergone incarceration for more than one year. The trial is not likely to conclude in the near future. The alleged involvement of the applicant is based primarily on his name being on the parcel and his presence at the time of delivery. Whether the applicant had conscious possession or knowledge of the contents of the parcel is a matter of evidence and can only be adjudicated during the course of trial.

13. It is also relevant to note that Section 20(b)(ii)(A) pertains to a small quantity and attracts a lesser punishment. Although Section 29 has been invoked for conspiracy, the connection between the applicant and the contraband seized from co-accused Akshay's residence would require deeper scrutiny at the stage of trial. At this stage, the applicant's custodial interrogation is no longer required.

14. Therefore, considering the period of incarceration, absence of recovery from the applicant, and the stage of the trial, this Court is of the opinion that further pre-trial detention of the applicant is not warranted.

15. In view of the above discussion and legal position, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant shall be released on bail in connection with Special Case No.1829 of 2024 registered at SIIB (APSC), Mumbai for the offences punishable under Sections 20(b)(ii)(A), 23(a), 27, 29, 35 read with 8(c) NDPS Act, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with the evidence or attempt to influence any witness.

(d) The applicant shall attend all proceedings before the

Special Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(e) The applicant shall report to the concern Police Station, on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(f) The applicant shall not leave the territorial jurisdiction of Mumbai District without prior permission of the learned Special Court.

(g) The applicant shall not leave to India without prior permission of the learned Special Court and surrender his passport with the Investigating Agency.

(h) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Special Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(i) The applicant shall not involve himself in any offence under the NDPS Act or any other penal law during the pendency of the trial.

j) If any of the above conditions are breached, it shall be open to the prosecution to seek cancellation of bail.

16. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)