



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 1247 OF 2024

Mohd. Abdul Imtiyaz Mohd. Abdul Hanif Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.M. Daga, counsel for applicant.

Ms M.A.Barbde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/03/2025.

1. The applicant came to be arrested on 16/04/2024 in connection with Crime No. 116/2024 registered with Mana Police Station, Tq. Murtizapur, District Akola for the offence punishable under Section 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

2. The crime is registered on the basis of the report lodged by A.S.I. Suraj Sambhaji Suroshe, who stated that when he was on patrolling duty on 19/03/2024, at the relevant time, he intercepted one truck bearing No. WB-23D-7237, which was stationed near the agricultural field. He suspected the person who was standing nearby the truck and therefore, he carried out the search of the said truck, and contraband article Ganja weighing 141 kg and 330 grams was found. The person who was standing there discloses his name as Pintu Das. During inquiry with him, he has disclosed the name of one Riyaz and stated mobile no. 7978153492. On the basis of said information,

further investigation was carried out, and as per the investigating agency, the involvement of the present applicant was revealed, and therefore, he was arrested.

3. Heard learned counsel, Mr. R.M. Daga, for the applicant. He directed attention to the recitals of the First Information Report, asserting that the name of the present applicant is not mentioned therein. The information provided by the co-accused pertains to an individual named 'Riyaj' and a mobile number (7978153492), which is not associated with the present applicant. This mobile number is registered in the name of one Atul Sahu, whose statement remains unrecorded by the investigating officer.

4. He further invited my attention towards the memo of arrest panchanama and submitted that in the memo of arrest panchanama, the name of the present applicant is mentioned as Mohd. Abdul Imtiyaz. Thus name of the present applicant is not Riyaz. The truck which is intercepted is also not owned by the present applicant. He submitted that except the CDR report, which shows the communication between the mobile numbers 7978153492 and 9766826582, the present applicant is arrested. He submitted that a mere CDR report is not sufficient to substantiate the allegations.

5. In support of his contention, learned counsel placed reliance on two orders of this Court: Criminal Application No. 838/2022, decided on 19/08/2022, and Bail Application No. 2655/2024, decided on 27/08/2024

at the Principal Seat. Both orders discussed the evidentiary value of CDR reports. He submitted that a mere CDR report is insufficient to establish the connection of the present applicant with the alleged offence. He further argued that the applicant has been implicated solely because a mobile was seized from him. Considering the nature of the evidence and the settled legal position that the statement of the co-accused is not admissible against the applicant. In view of that, the applicant be released on bail.

6. Learned APP strongly opposed the said application on the grounds that, during the investigation, the mobile phone was seized from the present applicant contained the SIM card bearing no. 7978153492, which was subsequently seized by the investigating officer. The applicant's arrest is based on the statement of the co-accused. Furthermore, the CDR reports show that there was consistent communication between the present applicant and other co-accused. For all of the above grounds, the prima-facie case is made out against the present applicant. Therefore, the bail application deserves to be rejected.

7. After hearing both sides and perusal of investigation papers, admittedly, except the CDR reports, there is no other material to connect the present applicant with the alleged offence. Furthermore, there is confusion regarding the name of the present applicant also. Thus,

considering that the applicant was not found at the spot. His connection with the arrested accused is also not established. There were some calls between the applicant and other co-accused; except this material, nothing incriminating was collected against the applicant. The applicant has been in custody since 16/04/2024. Thus, considering the available material, the applicant has made out a case for grant of bail. Admittedly, a commercial quantity was seized, but considering the nature of the evidence, there are reasonable grounds to believe that the involvement of the present applicant is doubtful, and therefore, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application is allowed.
- b] The applicant -Mohd Abdul Imtiyaz Mohd. Abdul Hanif, shall be released on bail in connection with Crime No. 116/2024 registered with Mana Police Station, Tq. Murtizapur, District Akola for the offence punishable under Section 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985, on furnishing P.R. Bond in the sum of Rs.1,00,000/- with one surety in the like amount.

- c] The applicant shall attend the concerned police station twice in a month, on 1st and 15th of every month, and the police station officer shall record his presence.
- d] The applicant shall furnish the local surety for the satisfaction of the Court.
- e] The applicant shall not leave India without prior permission of this Court.
- f] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- g] The applicant shall furnish his detailed address along with the address proof and names of his two relatives and their addresses with proof.
- h] The applicant shall also furnish his cell phone number and cell phone number of his two relatives for the satisfaction of the Court.
- i] In case of contravention of the terms and conditions, the bail granted to the applicant deserves to be cancelled.

8. The criminal application is disposed of

[URMILA JOSHI-PHALKE, J.]