

ABA No.2791/2022

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in C.R. No.1787/2022

MHCC020170962022



Presented on : 20-12-2022

Registered on : 20-12-2022

Decided on : 21-12-2022

Duration : 1 day

**IN THE SPECIAL COURT FOR NARCOTIC DRUG AND
PSYCHOTROPIC SUBSTANCES ACT, 1985, AT GR. BOMBAY**

ANTICIPATORY BAIL APPLICATION NO.2791 OF 2022

IN

C.R. NO.1787 OF 2022

Salim Imtiyaz Shaikh) .. Applicant/Accused

V/s.

The State of Maharashtra,)

(At the instance of Bandra police station)

Mumbai vide C.R. No.1787/2022) .. Respondent/Prosecution

Appearance :

Ld. Adv. Ms. Sherali S. Khan, for the applicant/accused.

Ld. APP Mr. S. S. Panjwani, for the respondent/prosecution.

**CORAM : H.H. THE ADDL.SESIONS JUDGE
SHRI V.G. RAGHUWANSHI (C.R.43)**

DATE : 21/12/2022

ORAL ORDER

This is an application for grant of anticipatory bail by applicant **Salim Imtiyaz Shaikh**.

2. Applicant submits that, he is permanent resident of address mentioned in the title clause. He apprehends arrest on false and frivolous complaint lodged by PC Nitin Dattaram Gurav of police station

Bandra. Therefore, applicant approached this Court. He submits that, allegations against him are false and frivolous. His name was mentioned in FIR intentionally though the informant knew that statement made by the accused No.1 was inadmissible. There is no material on record to connect present applicant with the offence. Applicant was not arrested on spot. He has been implicated on the basis of statement of co-accused and there is no other material on record to connect him in this offence. Accused No.1 Shankar Haribabu Kanojia is already released on bail by this Court vide order dated 21/11/2022. Quantity allegedly seized from accused No.1 is also an intermediate quantity and therefore, rigours of section 37 of the NDPS Act are not applicable to this case. Applicant is permanent resident of Mumbai. He has deeply roots in the society. Investigation is almost completed and there is no evidence against him. He is ready to abide by all conditions and co-operate Investigating Officer. He prayed for grant of anticipatory bail.

3. Prosecution resisted this application by filing its say Exh-02 on ground mentioned therein.

4. I have heard both sides. In this matter admittedly accused No.1 Shankar Haribabu Kanojia was apprehended on suspicion on 30/06/2022. He was found in possession of 16 gram Mephedrone (MD) and in the course of recording his statement he made a statement that he brought contraband from this applicant.

5. It is contention of Ld. Counsel of applicant/accused that, statement made by accused No.1 to Investigating Officer is inadmissible in evidence and therefore, in absence of any evidence on record except this inadmissible piece of evidence applicant/accused is entitled to be released on anticipatory bail.

6. On the other hand Ld. Public Prosecutor Shri. S.S. Panjwani drew my attention towards crimes pending against this applicant/accused. He submitted that, 7 crimes are pending against this applicant/accused. He also submitted that, Shankar Haribabu Kanojia (accused No.1) sells contraband in Bandra area. Associates of accused No.1 are doing business of contraband in different parts of Mumbai and they are receiving contraband from this applicant/accused. It is necessary to interrogate this applicant/accused as accused No.1 specifically stated that, he received contraband from this applicant/accused. Ld. Public Prosecutor further submitted that, it is necessary to find the source from where this applicant/accused got contraband. Though statement made to Investigating Officer under section 67 of NDPS Act may be inadmissible in the course of trial, it can be used for the purpose of investigation. Interrogation of this applicant/accused is not possible without his arrest.

7. I have given thoughtful consideration to submissions of both sides. Allegations against this applicant/accused are very serious as they pertain to supplying psychotropic substance Mephedrone (MD). It is having very serious consequences in the society. Applicant/accused is having criminal antecedents as many offences are registered against him. Therefore, I do not feel it safe to exercise discretion in favour of this applicant/accused and hence, I pass following order.

ORDER

1. Anticipatory Bail Application No.2791/2022 in C.R. No.1787/2022, is rejected.
2. Inform to concern police station/Investigating Officer accordingly.

ABA No.2791/2022

..4..

in C.R. No.1787/2022

3. Application stands disposed off accordingly.

(Pronounced in open Court)



Date : 21/12/2022.

(V.G. Raghuwanshi)
N.D.P.S Special Judge
City Civil & Sessions Court,
Gr. Bombay (CR.43)

Dictated on : 21/12/2022
Typed on : 22/12/2022
Signed on : 22/12/2022

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER"		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
23.12.2022	05.05 p.m.	Sanjay Baliram Kaskar (Stenographer Grade-I)
Name of the Judge		H.H.J. SHRI. V.G. RAGHUWANSHI (C.R.No.43) NDPS Spl. Judge
Date of Pronouncement of Judgment/Order.		21/12/2022
Judgment/order signed by PO on		22/12/2022
Judgment/order uploaded on		23/12/2022