

MHAU160046642025



Special Case No.1187/2025

The State of Maharashtra

Vs.

Avinash Ramkrushna Patil and Others

Sayyed Arbaz Sayyed Feroz @ Arbaz Khan - Applicant/accused

ORDER BELOW EXH.4

Accused – **Sayyed Arbaz Sayyed Feroz @ Arbaz Khan** has filed this Second application for grant of bail under Section 483 of the Bharatiya Nagrik Suraksha Sanhita.

Prosecution case in short is as follows :-

[2] On 12.09.2025, lady Police Inspector Geeta Bagwade got secret information that one racket was working for selling intoxicant to the young girl and boys illegally. It was further informed to the said Police Inspector that Avinash Ramkrushna Patil and Rupesh Ramkrushna Patil resident of Yeola have ordered consignment of bottles of codeine syrup from one Rayyan Medical Stores, Utter-Pradesh, to be sold and distributed to young girl and boys and the said consignment will reach to VRL Logistic at Waluj and Avinash Ramkrushna Patil

would come to the said VRL Logistic for receiving the consignment. Therefore, police along with panch witnesses arranged trap.

[3] Thereafter, police along with panch witnesses came near said VRL Logistic at Waluj and contacted Mahesh Garad, the Manager of the said Logistic Company and informed him about the matter.

[4] At about 02:30 p.m. one person came to the said VRL Logistic by his Swift Car, then he showed receipt to the Manager from mobile phone and asked for handing over the consignment. Accordingly, the said Manager handed over the consignment to the said person. Immediately, thereafter, police came forward and accosted the said person. On inquiry the said person disclosed his name as Avinash Ramkrushna Patil resident of Shirasgaon, Tq. Chalisgaon. He further disclosed that he along with his associates called for the said consignment in the name of one Medical Shop of Amol Dattatray Yeole, which was closed long back. It was further disclosed by Avinash that his brother Rupesh Patil is Medical Representative of Aristocrat Company and they all with the help of some other peddlers of their gang are selling and distributing said cough syrup illegally to gain monetary benefits.

[5] Thereafter, police took search of the said consignment and found 20 boxes of containing 128 bottles each of Ratuss Syrup. The said cough syrup was containing Codeine Sodium Phosphate - Triprolidine Hydrochloride. Police seized the said boxes containing bottles in presence of panch witnesses and prepared panchanama to that effect.

[6] On further inquiry accused - Avinash Patil disclosed that his brother Rupesh Patil asked him to hand over some boxes to Arshad Ibrihim Pathan resident of Sambhajinagar. Sometime, thereafter, accused Samir Shaikh Yunus Shaikh and Abdul Ajim Quadir Shah came there by auto-rickshaw. Accused Arshad talked to accused – Avinash Patil and told him that Rupesh Patil asked him to receive bottles from Avinash.

[7] Then, on considering criminal history of the accused persons including the present accused and technical evidence, police found that accused – Rupesh Patil, Avinash Patil and Amol Yeole were purchasing said bottles of cough syrup from Uttar-Pradesh and selling them through their peddlers to young girls and boys illegally. The present accused appears to be one of the said peddlers.

[8] Police lodged FIR about the incident at Waluj Police Station. Accordingly, Crime No.279/2025 came to be registered.

On **25.09.2025** police arrested the present accused. His First Bail Application No.177/2025 was rejected on 07.10.2025 before filing of the charge-sheet. Now, investigation is completed and charge-sheet is filed. Therefore, he has filed this **Second** application for grant of **bail**.

[9] I have heard both the sides and perused the material placed on record.

[10] Learned Advocate for the accused submitted that except mobile phone of the accused, nothing was seized from him. CDR collected by the Investigating officer are not sufficient to show that this accused had contacts with the other accused persons as regards to selling or purchasing of bottles of cough syrup. Witnesses mentioned in the charge-sheet either police persons or government servants, therefore, there is no possibility of tampering with the prosecution evidence. There is no material to show that this accused had any money transaction with the other accused persons. Thus, there is no material to show involvement of the accused in this crime. He is permanent resident of Roshan Gate, Chhatrapati – Sambhajinagar, having no criminal antecedents. He is ready to abide all the terms and conditions which will be imposed by this Court. On these ground he prayed for grant of bail.

[11] In support of his argument the Learned Advocate for the accused relied upon the following case laws:-

(1) **Anido Tochukwu Vs. State of Maharashtra Bail Application No.4148/2023** decided by the Hon'ble High Court of Bombay on 18.04.2024, wherein it is held that for want of compliance under Sec.52-A of the NDPS Act, the accused is entitled for bail.

(2) **Chand Riyaz Shaikh Vs. The Union of India Bail Application No.3269/2022** decided by the Hon'ble High Court of Bombay on 13.07.2023, wherein it is held that for want of compliance under Sec.42(1) of the NDPS Act, the accused is entitled for bail.

(3) **Sholadoye Samuel Joy Vs. The State of Maharashtra Bail Application No.2295/2021** decided by the Hon'ble High Court of Bombay on 20.01.2022, wherein it is held that for want of compliance under Sec.50 of the NDPS Act, the accused is entitled for bail.

(4) **Ravi Manoj Rai Vs. The State of Maharashtra Bail Application No.3846/2024** decided by the Hon'ble High Court of Bombay on 11.02.2025, wherein it is held that CDR between the accused without incriminating transcript does not perse make up a ground for indictment. Therefore, the accused was granted bail.

[12] On the other hand, Ld. APP submitted that nature of the offence is serious. There is prima facie material to show the involvement of the accused. In the circumstances, filing of

the charge-sheet would not make any difference. If the accused is released on bail possibility of his absconding and tampering with the prosecution cannot be ruled out. On these grounds, he prayed for rejection of the application.

[13] From the material placed on the record, it appears that accused – Avinash Patil was caught on the spot having in possession 20 boxes containing 128 bottles each of Codeine Cough Syrup of 100 ml. having label of Codeine Phosphate, Triprolidine Hydrochloride Cough Linctus 100 ml each. Those were total 2504 bottles. Sections 8(c) and 22(c) of the NDPS Act, are applicable in cases where any person is found possessing, selling, purchasing or transporting Psychotropic substance.

[14] The Investigating Officer got conducted Inventory of the seized muddemal before the learned Judicial Magistrate, Gangapur, wherein it is found that there were 2484 bottles of codeine cough syrup, after taking out 1 bottle a sample from each box. The Investigating Officer has produced on record photographs of the label of the said bottles, wherein it is written as RAYTUSS Expectorant, containing Codeine Phosphate and Triprolidine Hydrochloride Syrup 100 ml each, wherein each 5 ml of syrup containing 10 mg of Codeine Phosphate. Thus, 1 bottle of 100 ml syrup was containing 200 mg of Codeine Phosphate. Thus, total 2504 bottles of 100 ml each, were

containing total 500.80 mg of Codeine Phosphate, which is more than small quantity but less than commercial quantity as specified in the Schedule attached to the NDPS Act.

[15] It appears that total 2504 bottles of Codeine Cough Syrup of 100 ml. having label of Codeine Phosphate, Triprolidine Hydrochloride 100 ml each came to be seized from the possession of the accused- Avinash.

[16] As per the table mentioned in S.O.1055 (E), dated 19.10.2001 published in Gazette of India, Extra., Part II, Section 3(ii) dated 19.10.2001 (Notification specifying small quantity and commercial quantity) at Sr. No.28 Drug **Codeine is 10 grams**, is small quantity whereas **1 kilogram** is commercial quantity. In this matter certainly the quantity of seized muddamal is more than **10 grams but less than commercial quantity**. Thus, as mentioned above the said 2504 bottles are totally containing 500.80 mg. of Codeine Phosphate was seized in this matter.

[17] In this matter Sections 8(c), 22, 22(c), 25, 27-A and 29 of the NDPS Act have been applied. Sec.8(c) says that no person shall produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic drug or psychotropic substance.

[18] Sec.21 provides punishment for contravention in relation to manufactured drugs and preparations. It says whoever, in contravention of any provision of this Act or any rule or order made or condition of licence granted thereunder, manufactures, possesses, sells, purchases, transport, imports inter-State, exports inter-State or uses any manufactured drug or any preparation containing any manufactured drug shall be punishable. Similarly section 22 (c) of the NDPS Act provides punishment for contravention in relation to psychotropic substances.

[19] Section 25 says that whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with the punishment provided for that offence.

[20] Section 27-A says that whoever, indulges in financing, directly or indirectly, any of the activities specified in sub-clauses (i) to (v) of clause (viii) of section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty

years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

[21] During the investigation the Investigating Officer collected Bank details, phone call details and whatsapp call and chatting details of the present accused and other accused persons and it was found that these accused persons have contacted with each other and there were some money transactions amongst them. The present accused appears to be one of the said peddlers. Therefore, considering the allegations made against the present accused and his role in this crime provisions of Sec.8(c), 21, 22(c), 25 and 27-A of the NDPS Act appear to be applicable in this matter. Nature of the offence is serious. It is directly related to the future of the next young generation of this Country.

[22] Investigation of the crime is completed and charge-sheet is filed. However, except filing of the charge-sheet there is no substantive change in circumstances after rejection of earlier Bail Application of the present accused. In the circumstances, filing of the charge-sheet cannot be the sole ground for grant of bail. If the present accused is released on bail possibility of his absconding and tampering with the prosecution evidence cannot be ruled out.

[23] Having regard to the above mentioned facts and circumstances, I am of the opinion that the present accused is not entitled for grant of bail. In the result, the application deserves to be rejected. I, therefore, pass the following order. :-

ORDER

Application is rejected.

Date – 17.12.2025

(S.B. Bahalkar)
Additional Sessions Judge,
Gangapur