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MHAU160046642025



Special Case No.1187/2025

The State of Maharashtra

Vs.

Avinash Ramkrushna Patil and others

ORDER BELOW EXH.39

Accused Nos.(2) – **Arshad Ibrahim Pathan** 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. 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 parcel/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 Arshad Ibrahim Pathan (accused No.2), Samir Shaikh Yunus Shaikh and Abdul Ajim Quadir Shah came there by auto-rickshaw. Arshad (accused No.2) talked to accused – Avinash Patil and told him that Rupesh Patil asked him to receive bottles from Avinash Patil.

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

[8] Police brought **Arshad Ibrahim Pathan** (accused No.2) and seized muddemal to Waluj Police Station. Accordingly, Crime No.279/2025 came to be registered. On **12.09.2025** police arrested the present applicant. His First Bail Application No.73/2025 was rejected on 07.10.2025 before filing of the charge-sheet. Thereafter, this accused filed Criminal Bail Application No.2019 of 2025 before the Hon'ble High Court. In the meanwhile charge-sheet came to be filed in this matter. Hence, on 23.12.2025 the accused withdrew the said Bail Application before the Hon'ble High court with liberty to file fresh Bail Application before this Court. The Hon'ble High Court granted such liberty to this accused. 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] The Learned Advocate for the accused has submitted that since the quantity of the Codeine Phosphate is not mentioned it cannot be ascertained that the quantity of the drugs allegedly seized was commercial quantity. Hence, there is no application of Sec.37 of the NDPS act.

[11] Learned Advocate for the applicant further submitted that as per the prosecution case on the say of the other accused persons the present accused has been implicated in this matter. Such statement of the co-accused cannot be looked into to implicate other accused persons. In this matter inventory of the seized goods was not conducted within the stipulated period and thus the prosecution has failed to comply with the provisions of Sec.52-A of the N.D.P.S. Act. Therefore, the accused is entitled for bail. In support of he relied upon the case law **Mohan Lal Vs. State of Punjab 2018 AIR (SC) 3853.**

[12] He has further submitted that no doubt during the investigation the Investigation Officer has collected CDR/SDR and Statements of Bank Account of the accused persons. However, the same are not sufficient to disclose that the accused were involved in this crime. There is no concrete material to show involvement of Accused No.2- Arshad in the crime. Moreover, inventory of the seized contraband articles was not done within stipulated period. Hence, the said inventory has no

much significance in the eyes of law. Investigation of the crime is completed and charge-sheet is filed. Nothing remained to be discovered or recovered from Accused No.2- Arshad. In the circumstances it would not be just and proper to keep Accused No.2- Arshad behind bars for uncertain period, hence, he is entitled for grant of bail. In support of his argument he relied upon the case law **Union of India Vs. Mohanlal and Anr 2016(1) ACR 704.**

[13] On the other hand Ld. APP submitted that there is change except filing of the charge-sheet after rejection of earlier bail application of Accused No.2- Arshad. There is prima facie evidence to show involvement of Accused No.2- Arshad in the present case. Nature of the offence is serious. If, there are some minor irregularities in the investigation the same can be considered and explained at the time of trial. However, at this stage, on the basis of such minor irregularities Accused No.2- Arshad cannot be granted bail. On these ground he prayed for rejection of the application.

[14] From the material placed on the record, it appears that the accused along-with 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. On inquiry, it was found that the accused came there to purchase some bottles out of the above total 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.

[15] 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 Scheduled attached to the NDPS Act.

[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 muddemal is more than **10 grams but less than commercial quantity**.

[17] Considering the observations made by the Hon'ble Supreme Court in the matter of **E. Micheal Raj Vs Intelligence officer, Narcotic – AIR 2008 Supreme Court 1720**, actual contents of Codeine Phosphate is required to be taken into consideration. Therefore, as mentioned above the said 2504 bottles are totally containing 500.80 mg. of Codeine Phosphate was seized in this matter.

[18] 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.

[19] Sec.21 provides punishment for contravention in relation to manufactured drugs and preparations. Its says whoever, in contravention of any provision of this Act or any rule or order made or condition of license 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.

[20] 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.

[21] 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.

[22] During the investigation the Investigating Officer collected Bank details, phone calls details and WhatsApp call and chatting details of this accused and other accused persons and it was found that Accused No.2- Arshad has contacted with each other and there were some money transactions amongst them. Therefore, considering the allegations made against the 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. Nature of the offence is serious. It is directly related to the future of the next young generation of this Country.

[23] 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.

[24] 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 – 09.02.2026

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