


MHRG170001752021 	<b>Special Case (NDPS) No. 14/2021</b> Intelligence Officer, Directorate of Revenue Intelligence Mumbai Zonal Unit, Mumbai ... Complainant Vs Meenanath Bodake and others ... Accused
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**ORDER BELOW EXH. 68**

1] This is an application filed by accused No.3-Sarvesh Bhatia under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (in short “BNSS”) for grant of bail.

2] Prosecution has filed say to this application at Exh. 72 and thereby strongly opposed the application.

3] Perused application, say thereon and record of the case. Heard both sides.

4] Accused No.3 was arrested on 09/08/2020. Accused persons are charge-sheeted for the offence punishable under Section 8(c) read with 21(c), 23, 25, 27-A, 28, 29 and 31-A of The Narcotic Drugs And Psychotropic Substances Act, 1985.

5] Ld. Advocate for accused submitted that, the accused No.3 was arrested merely because he owned proprietary firm named as M/s. Sarvim Exports. The alleged recovery of contraband was unknown to the accused No.3. Co-accused No.1 did not verify the KYC. Only on the statement of accused No.1 and 2 the present accused No.3 was arrested. There is no recovery from the present accused No.3. The statement of co-accused is inadmissible in view of the judgment of **Toofan Singh**

**V/s. State of Tamilnadu.** The co-accused are on bail. Accused No.3 is in custody for more than 4.5 years. Accused No.3 is ready to obey any conditions to be imposed by the Court.

6] Ld. Spl. A.P. P. Shri. Vijyendra Mishra submitted that, though charge-sheet is filed, considering the nature and gravity of the offence it is not proper to release accused on bail. The accused No.3 is the proprietor of M/s. Sarvim Export. The contraband Heroin of 191.60k.G. was seized from the container No.INKU2267955 imported under bill of entry No.8349682. The contraband was concealed in the import consignment of Liquorice Roots under the name of M/s. Sarvim Export. The present accused No.3 was previously convicted in relation to 1210 K.G. Charas. The possibility of repetition of crime cannot be ruled out. Hence, prosecution prayed for rejection of bail.

7] Perused application, say and record of the case. It appears that, the team of Director of Revenue Intelligence (DRI) effected raid on 07/08/2020 at about 11.15p.m. at Navkar Corporation 2 (Manibhadra) CFS Raigad. They found container No.INKU2267955 imported under bill of entry No.8349682 dated 01/08/2020. On examination of said container in the presence of panch witnesses, the raiding team found 191.60Kgs Heroin of creamish coloured powder with pungent smell concealed inside hollow plastic pipes which were given wooden texture by pasting the same with wooden bark artificially on it. Accused No.1 was the custom house agent of the said consignment and partner in custom broker firm M/s. M.B.

Shipping and Logistic Solution. On reference of accused No.2, accused No.1 accepted the job clearance of import consignment of M/s. Sarvim Export. Accused No.1 received the call from accused No.4 in June 2019 inquiring about clearance of import of Mulethi Liquorice Roots from Afghanistan. Accused No.1 agreed to clear import consignment of accused No.4. Accused No.3 is the proprietor of M/s. Sarvim Export. Accused No.3 met accused No.4 and 5 in Tihar Jail while suffering sentence of previous case. Accused No.3 was released in November 2017 after suffering the sentence. Accused No.3 gave all relevant papers to accused No.4. Accused No.3 suggested name of accused No.2 as a custom broker. Accordingly, accused No.4 contacted accused No.2 and thereafter accused No.1. Accused No.4 used to look-after business operation from the office of accused No.5 at Delhi. 190 packages of Liquorice Roots (Mulethi) weighing 9500 Kgs were imported in the name of M/s. Sarvim Exports from Afghanistan. The seized Heroin was concealed in import consignment of Mulethi Liquorice Roots. Therefore Intelligence Officer, Directorate of Revenue Intelligence Mumbai Zonal Unit, Mumbai filed this complaint.

8] The main grounds of bail application are parity and prolonged incarceration. Co-accused No.2 and 5 were enlarged on bail as per the order of Hon'ble Bombay High Court. Accused No.1 was enlarged on bail by order dated 14/02/2024. However, the parity cannot be sole ground for bail. In the light of the law laid down by the Hon'ble Supreme Court in **Ramesh**

**Bhavan Rathod V/s. Vishanbhai Hirabhai Makwana (Koli) and another, reported in AIR(SC)-2021-0-2011** while considering the ground of parity the individual role attributed to each accused must be considered. In the present case the role of the present accused No.3 is not equal to the role of released accused.

09] In **Amit Kumar Yadav V/s. State of NCT of Delhi, reported in (2018) 12 SCC 129**, wherein Hon'ble Supreme Court held that, "*while granting bail, the relevant considerations are (i) nature of seriousness of offence, (ii) Character of the evidence and circumstances which are peculiar to the accused, and (iii) likelihood the accused being from justice, (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and v) likelihood of his tampering. No doubt, this list is not exhaustive. There are no hard and fast Rules regarding grant or refusal of bail, each case has to be considered on its own merits. The matter always calls for judicious exercise of discretion by the Court.*"

10] Accused No.3 is previously convicted of similar offence. He hatched conspiracy for commission of the present crime in Tihar jail while suffering the sentence. He is mastermind of the present crime. The contraband Heroin of 191.60k.G. was seized from the container No.INKU2267955 imported under bill of entry No.8349682. The contraband was imported from Afghanistan under the name M/s. Sarvim Exports. The accused No.3 is proprietor of the said Export company. The call details and whatsapp record show that all the accused were in contact

with each other for clearing consignment. There is sufficient material on record against the present accused No.3. The present accused No.3 played major role. The role of this accused is higher than the released accused. Therefore, accused No. 3 is not entitled for bail under the ground of parity. There is possibility of the repetition of the crime. The punishment for offence under Section 31 of the NDPS Act is not less than punishment specified in Section 31 or with death. The minimum punishment for offence punishable under Section 21(C) of the NDPS Act is not less than ten years. Considering the nature, gravity of the offence and severity of punishment, I am not inclined to grant bail. As a result, I proceed to pass following order.

**:: ORDER ::**

1. Application is rejected.

Panvel,  
Dated :- 02/08/2025

(S. R. Chavan)  
Addl. Sessions Judge  
Panvel, Dist.-Raigad