

MHRG170010822024



IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL SESSIONS JUDGE,  
PANVEL, DIST.RAIGAD  
ORDER BELOW EXHIBIT-7 IN SPECIAL NDPS CASE NO.74/2024  
(Dated 16/07/2024)

- 1] Applicant/accused **Siddha Bahadur Pal** is seeking bail in C.R.No.660/2023 registered with Panvel City police station for offence p/u/sec.8(c) 22(c) of NDPS Act 1985.
- 2] According to prosecution on 03/12/2023 secret information was received about accused No.1 Shadab at 04.00 to 04.30 p.m. is likely to arrive at Mumbai-Goa way at village Shirdhon. Accordingly, two panchas were called and all the preparation was made for the trap. At about 4.10 p.m. Shadab was apprehended and on his search, he was found possessing 61.09 kgms Mephadrone (MD). Police seized this contraband drug, by following statutory compliances.
- 3] Applicant/accused submits that, he is not concerned with said crime. Nothing was recovered from him. Co-accused Mohsin is on bail. Applicant/accused has no criminal antecedents, he is married having wife and 5 years daughter. He is ready to abide all conditions.
- 4] Investigation officer opposes the bail by say on the grounds that, in the present case contraband drug recovered is of

5 Kgs 396 mgs. It was seized from a closed factory at Khalapur from a farm house at which said drug was prepared. The present applicant/accused is employee of Clean Engineering Company, Badlapur. He had supplied chemical for preparation of Mephadrone. According to prosecution investigation is to be made, as to whether there are other persons involved in the crime of supply of chemical. The co-accused are to be arrested. The present applicant/accused is not permanent resident of Maharashtra. He may abscond.

5] Heard Ld.Adv for the applicant/accused. Heard Ld. APP Yerunkar and investigation officer.

6] Ld.Adv.for the accused submitted that, the only material against present accused is the statement of two witnesses. It is submitted that, present accused had no role in the alleged manufacture of the drug. Ld.APP submitted that, there is no change in circumstance as earlier bail application was rejected. There are reasonable grounds to believe that, present accused is involved in conspiracy. The accused has no permanent address and if bail is granted, he will abscond.

7] There was no recovery except a cell phone from the applicant/accused. Prosecution alleges that, a chemical was supplied to the co-accused but from the said co-accused no chemical was recovered. In the earlier bail application, the fact that, except the statement of two witnesses, there is no material,

was not brought to my notice. The statement of Vishnuchandra Tiwari and Shaji Peter is brought to my notice, which was recorded on 15/12/2023. Ld.Advocate for the accused submitted that, prima facie the statement appears to be an extra judicial confession.

8] If the statement of Vishnuchandra Tiwari and Shaji are considered, the concerned police on 12/12/2023 visited Clean Engineering Pvt.Ltd., Shirgaon, MIDC, Badlapur. The present accused accompanied the police and in presence of the present accused said two witnesses had questioned the accused and he disclosed that, he had given two boxes of chemical Bromine to co-accused Sahil Lambe.

9] Aforesaid fact is brought to my notice in this Bail Application, this is the change in circumstance. If aforesaid fact is considered then the allegations are only of supply of some chemical. Prima facie there is no material to conclude that, present accused participated in preparation of a contraband drug by supplying the chemical.

10] Ld.Advocate placed his reliance on the decision of Tufan Singh Vs. State of Tamilnadu, (2021) 4 SCC 1. Hon'ble Apex Court in this decision has laid down law and guidelines with regard to the statement recorded u/sec.67 of the Act.

11] Reliance is also placed on the decision of Arjanbhai Mevada Vs.State of Gujrat Criminal Miscellaneous Application No. 276/2018 decided on 14/03/2018. In this case, it is laid down that, Bromine is not a narcotic drug of psychotropic substance.

12] Reliance is placed on the decision of Aryan Shahrukh Khan Vs. Union of India Bail Application No.3624/2021. In this decision Hon'ble Parent High Court has laid down a law that, "for inferring the act of hatching conspiracy on part of applicants, there has to be positive evidence about agreement to do unlawful act or to do lawful act by unlawful means."

13] In the present case at hand as stated above, except the two statements which were made in presence of police, there is no other material to attract the rigors of section 37 of the Act. In the charge-sheet prima facie there is no evidence about present accused and the other co-accused had met each other, nor there is any agreement. Considering all these circumstances by imposing stringent conditions present applicant/accused deserves to be enlarged on bail. Hence, I pass following.

#### ORDER

1. Application Exh.7 is allowed.
2. Applicant/accused **Siddha Bahadur Pal** in C.R.No. 660/2023 registered with Panvel City police station for offence p/u/sec. 8(c) 22(c) of NDPS Act 1985, be released on **PB of Rs.50,000/-** alongwith a **solvent local surety** of like amount.

3. Applicant/accused shall attend concerned police station once in a month i.e. on every 3<sup>rd</sup> Saturday from 11.00 am to 01.00 p.m. till conclusion of trial.
4. Applicant/accused shall not directly or indirectly induce or threat prosecution witnesses or any person related with the crime.
5. Applicant/accused shall furnish his address proof on record. 6.Inform concerned police station.
6. Bail before this Court.
7. Copy of order be sent to jail authorities by E-mail.

Panvel  
Dated :-16/07/2024

( Jairaj D.Wadne )  
Spl NDPS Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer : S.J.Sheth  
Name of the Court : Additional Sessions Judge,  
Panvel Raigad  
Date of dictation (direct) : 19/07/2024  
Order signed by the PO.on : 19/07/2024  
Order uploaded on : 19/07/2024