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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application No.1709 of 2023

Mohd. Murad Oliar Shaikh

Applicant/
Accused No.2

Versus

The State of Maharashtra
(through Panvel Police Station,
Raigad)

... Respondent.

...
Mr Amit Icham, Legal Aid appointed Advocate for the
applicant.

Ms Shilpa Talhar, APP for State.

API Sanjay Galve, Panvel Taluka Police Station, Navi Mumbai
is present.

Coram : R. N. Laddha, J.

Date : 9 May 2024.

P.C. :

By this application, the applicant is seeking bail in
connection with the prosecution launched against him on the
basis of FIR No.36 of 2022 registered at Panvel Taluka Police
Station, for the offence punishable under Sections 420, 465,

467, 468, 471 of Indian Penal Code (IPC), Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Section 3(a), 6(a) of the Passport Act and Section 14(a) of the Foreigners Act.

2. Mr Amit Icham, learned Counsel appearing for the applicant, submits that the applicant has been in custody since 13 May 2022, however, the trial is still pending. There is no material to connect the applicant to the alleged crime. The applicant was not found in possession of any contraband material, which admittedly was found in possession of co-accused/accused No.1. Furthermore, the charge sheet lacks any material linking the applicant to the offence. The applicant, a citizen of Bangladesh, was never in contact with accused No.1. The alleged forged Aadhar Card and Pan Card were already seized during the investigation. Despite this, the trial Court rejected the applicant's bail application based solely on the possibility of the applicant fleeing the Country.

3. On the other hand, Ms Shilpa Talhar, the learned Additional Public Prosecutor for the State submits that even though the applicant was not directly found in possession of contraband, he is accused of conniving with accused No.1. Accused No.1 was caught with 54.180 gm of contraband

material, which qualifies as a commercial quantity. Furthermore, the applicant entered the Country without a valid passport and visa.

4. In the present case, there is no disagreement regarding the applicant's detention since 13 May 2022. It is undisputed that the applicant is not a citizen of India. It is acknowledged that the applicant was not in possession of the contraband material. There is no material linking the applicant to accused No.1, who allegedly had a commercial quantity of contraband material. The alleged forged Pan Card and Aadhar Card were already seized. Furthermore, the applicant's arrest occurred approximately three months after accused No.1's arrest. Given these circumstances and the pending trial, there appears to be no valid reason to continue detaining the applicant.

5. **In** view of the above, this application is allowed in the following terms :

a) The applicant shall be released on bail in connection with CR No.36 of 2022, registered at Panvel Taluka Police Station, on furnishing PR Bond of Rs.1 Lakh with two solvent sureties in the like amount to the satisfaction of the trial Court.

b) The release of the applicant shall be subject to production of valid passport and visa. Since passport and visa can be applied online, as informed by the learned APP, the applicant will have to apply for the same from jail. The respondent-State Authority shall provide assistance to the applicant. But it is made clear that without producing valid passport and visa, the applicant shall not be released on bail.

(c) Upon producing such valid passport and visa, the applicant shall place copies thereof before the trial Court.

(d) The applicant shall register himself on the basis of such valid passport and visa, with the concerned Foreigners Regional Registration Office (FRRO) within two weeks from his release.

(e) The applicant shall use SIM Card for mobile phone i.e. obtained on the basis of such valid passport issued in his favour and he shall give the details of such contact number before the trial Court at the

earliest.

(f) The applicant shall inform the place of his residence to the trial Court with valid proof thereof and report any changes in the same immediately with appropriate proof each time before the trial Court. If the applicant fails to provide such details, he shall be kept in detention centre(s) established by the respondent-State.

(g) The applicant shall file affidavit before the trial Court within two weeks of his release on bail, stating the source of his funds and source of his income in this Country, giving the details of legal channels, including Bank accounts through which he would be operating his finances.

(h) The applicant shall report to the Panvel Taluka Police Station every Sunday between 11:00 a.m. and 1:00 p.m., till the completion of trial.

(i) The applicant shall not indulge in any activity that would amount to tampering with evidence and influencing

witnesses.

(j) The applicant shall remain present before the trial Court on each and every date of the proceedings and he shall cooperate with the trial Court for the expeditious disposal of the case.

(k) The applicant shall produce a Certificate of assurance from Embassy/ High Commission of the Country to which is belongs that he shall not leave the Country and that he shall appear before the Court as and when required.

6. Needless to say, the violation of any of the aforesaid conditions would make the applicant liable for cancellation of bail.

7. The State shall take appropriate steps for issuance of Lookout Circulars in respect of the applicant so that he do not attempt to flee this Country through ports of exit.

8. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant and

that the trial Court shall proceed with the matter without being influenced by the same.

9. The present bail application stands disposed of in the above terms.

[R. N. Laddha, J.]