

# Rohit Madariya S/O Shri Vallabh Bhai ... vs State Of Gujarat on 12 March, 2024

NEUTRAL CIT

R/CR.MA/708/2024

ORDER DATED: 12/03/2024

undefined

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL)  
NO. 708 of 2024

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ROHIT MADARIYA S/O SHRI VALLABH BHAI MADARIYA  
Versus  
STATE OF GUJARAT & ANR.

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Appearance:

MR JAL UNWALLA, SENIOR ADVOCATE assisted by MS. KETKI P  
JHA(9864) for the Applicant(s) No. 1  
MR KARTIK V PANDYA(2435) for the Respondent(s) No. 2  
MR BHARGAV PANDYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 12/03/2024

ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail after filing of chargesheet in connection with offence registered vide File No.F.No.NCB/AZU/CR-09/2023 with the Narcotic Control Bureau, Zonal Unit, Ahmedabad for the offences under sections 8(C), 22(C), 23 read with Sections 28 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985.

2. It is the case of the prosecution that upon NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined receiving specific information on 22.6.2023, the NCB officials arranged a raid and during such raid, they recovered 500 kg TRAMADOL Powder by preparing the panchnama from Inland Container Depot, Sanand from a container bearing No.PONU00470066. Accordingly, the aforesaid offence came to be registered.

3. That the respondent No.2 issued notice under section 67(C) of the NDPS Act, 1985 to the applicant accused stating that there are reasonable grounds to question the applicant to ascertain facts and circumstances in relation to the present investigation and therefore, the applicant was directed to remain present before the respondent No.2 on 30.6.2023 at 11.00 am. The applicant accused came to be arrested on 1.7.2023. The applicant accused came to be produced before the learned Magistrate on 2.7.2023. In the production report, it is stated that seized TRAMADOL powder was misdeclared as "SILDENAFIL MICRO GRANULES B.P. 90%" and was being attempted to be illegally smuggled out of India by the applicant accused NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined in conspiracy with other known / unknown persons.

4. The applicant accused, thereafter, preferred Criminal Misc.Application No.2517 of 2023 before the learned trial Court which came to be dismissed vide order dated 19.7.2023 by the learned Special Judge (NDPS) and 4th Additional District & Sessions Judge, Ahmedabad (Rural) at Mirzapur.

5. Being aggrieved, the applicant accused preferred Criminal Misc. Application No.14373 of 2024 before this Court. After hearing learned senior advocate Mr.Unwalla for the applicant accused and learned APP Mr.Dhawan Jayswal for the respondent No.1 - State and learned advocate Mr.Kartik Pandya for the Narcotic Control Bureau - respondent no.2 at length, this Court, by a reasoned order dated 10.10.2023, rejected Criminal Misc. Application No.14373 of 2024 preferred by the applicant accused. Admittedly, the said order dated 10.10.2023 passed by this Court in Criminal Misc. Application No.14373 of 2024 has NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined not been challenged before the Honourable Apex Court.

6. The attention of this Court is drawn that now the chargesheet has been filed and the applicant accused preferred Criminal Misc. Application No.4490 of 2023 after filing of the chargesheet before the learned trial Court. Learned 4th Additional District & Sessions Judge and Special Judge (NDPS), Ahmedabad (Rural) vide order dated 27.12.2023 rejected the said application for regular bail as no cogent and convincing grounds have been raised to entertain the said bail application.

7. Being aggrieved, the applicant accused preferred Criminal Misc. Application No.708 of 2024 before this Court.

8. Heard learned senior advocate Mr.Jal Unwalla assisted by Ms.Ketki Jha for the applicant accused, learned APP Mr.Bhargav Pandya for the respondent No.1 - State and learned advocate Mr.Kartik Pandya for the Narcotic Control NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined Bureau - respondent no.2 at length.

9. Learned senior advocate Mr.Jal Unwalla has submitted that the investigation is over and the chargesheet is filed and therefore, the custody of the applicant accused is no longer required. Learned senior advocate Mr.Jal Unwalla has further submitted that the nature of offences as coming out from the confessional statement of the accused are squarely covered by the judgment of the Hon'ble Supreme Court in Toofan Singh v. State of Tamilnadu, as reported in AIR 2020 SC 5592 and such confessional statement is inadmissible and therefore, since no other independent

incriminating evidence is placed on record by the investigating agency in respect of the alleged offences, the applicant accused is required to be enlarged on regular bail. Learned senior advocate Mr.Jal Unwalla has further submitted that the applicant accused is a Director of the company being M/s. Agonist Pharmaceuticals Pvt. Ltd which is holding a valid license for manufacturing and sale of upto 500 kgs of tramadol powder and the same NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined contraband which was seized by the respondent No.2 which was legally purchased by the applicant/accused's company and therefore, the offences in question are clearly not made out against the applicant accused.

9.1 Learned senior advocate Mr.Jal Unwalla has further submitted that the applicant is merely a Director of the company being M/s. Agonist Pharmaceuticals Pvt. Ltd situated at Kerala GIDC, whereas the contraband was seized at Inland Container Depot, Sanand and since there is a valid license with the applicant's company for manufacturing and sale of 500 kgs of tramadol powder, the act of transporting tramadol powder instead of Sildenafil powder is at the best an inadvertent act and a case of misdeclaration but does not constitute any offence under Narcotics, Drugs and Psychotropic Substances Act, 1985. Learned senior advocate Mr.Jal Unwalla has further submitted that the applicant herein has been falsely implicated in the present case and even if all the allegations of the FIR are considered in its entirety without any NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined rebuttals, no case is made out against the applicant accused herein. Learned senior advocate Mr.Jal Unwalla has further submitted that the applicant accused has undergone a lengthy remand period and has completely cooperated with the investigation agency and is willing to comply with all the procedures established by law and will remain present as and when required. Learned senior advocate Mr.Jal Unwalla has further submitted that the learned trial Court has relied solely on a bar of Section 37 of NDPS Act without considering that if twin conditions as enumerated in Section 37 of NDPS Act are satisfied the accused can be released on bail and the applicant herein satisfies both the conditions and the bar under Section 37 of the NDPS Act is not an absolute bar but can be bypassed if the twin conditions are satisfied. Lastly, Mr.Unwalla urges this Court to enlarge the applicant accused on regular bail. In support of his submissions, Mr.Unwalla has relied upon the decision of the Honourable Apex Court in the cases of Tofan Singh Vs State of Tamilnadu, reported in (2021) 4 SCC 1, Balwinder Singh (Binda) Vs The Narcotics NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined Control Bureau (Criminal Appeal No.1136 of 2014 dated September 22, 2023) as well as the decision of the coordinate bench of this Court in the case of Harshal Prafulbhai Desai Vs State of Gujarat in Criminal Misc. Application No.17496 of 2020 dated 1.2.2021.

10. On the other-hand, learned advocate Mr.Kartik Pandya appearing for the respondent No.2 has vehemently opposed the bail application and submitted that there is sufficient material against the present applicant to deny him bail. Mr.Pandya has further submitted that the applicant accused came to be arrested on 01.07.2023 after he was found to have indulged in illegal trafficking and attempted to export a huge quantity of 500 Kilograms of Tradamol powder which was seized on 22.06.2023. Mr.Pandya has further submitted that though the applicant was holding the license, mere possession of registration number does not authorise an entity to export/import a psychotropic substance. Mr.Pandya has invited the attention of this Court towards paragraph 53 of Chapter VI of NDPS Rules NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED:

12/03/2024 undefined 1985 (which governs import, export and transshipment of narcotic drugs and psychotropic substances) which clearly states that "import into and export out of India of narcotic drugs and psychotropic substances is prohibited except with an import certificate or export authorization issued under the provision of this Chapter" and admittedly, in the present case, the applicant accused did not have an export authorization in respect of Tramadol powder seized by the NCB, Ahmedabad. Mr.Pandya has further submitted that the applicant accused in fact fabricated the document and attempted to export the psychotropic substance in the garb of other product i.e. Sildenafil Micro Granules B.P.90%. 10.1 Mr.Pandya has further submitted that the applicant has neither applied in Form 5 appended to the NDPS Rules 1985 nor did he possess an export authorization for exporting Tramadol and that in the documents which are required to be produced at the time of export, the accused had attached FDCA permission letter in which the entire consignment has been misdeclared as NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined Sildenafil Micro Granules BP 90% and hence, the applicant accused had deliberately suppressed the fact about the presence of Tramadol in the drums that were to be exported. Mr.Pandya has further submitted that the applicant accused, in the export invoice and packing list, has misguided the authorities by giving false undertaking that "THE ABOVE PRODUCT DOES NOT CONTAIN OF KETAMINE AND TRAMADOL". Mr.Pandya has further submitted that the applicant accused was present during the panchnama proceedings at ICD Sanand on 22.6.2023 from where he was attempting to illegally export the said consignment to Democratic Republic of Congo and during the said panchnama proceedings, he himself identified the drums in which he had mis-declared/concealed the said Tramadol Powder as Sildenafil Micro Granules 90% BP. Mr.Pandya has further submitted that the applicant accused further revealed in his voluntary statement that another director of his company M/s. Agonist Pharmaceuticals Pvt. Ltd., i.e. Dhaval Kamani has actively and knowingly conspired in the aforesaid offence and he is NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined on the run since the date of the seizure and notices under section 67 of the NDPS Act, 1985 to record his statement have been sent to his available address, but he has not honoured them and therefore, there is a clear cut offence made out under Sections 8(c), 22(c), 23 read with 28, and 29 of the NDPS Act, 1985.

10.2 Mr.Pandya has further submitted that chemical examination reports have been received from National Forensic Science University which further strengthen the fact that the applicant accused is the mastermind of the conspiracy to illegally export Tramadol Powder which is an extremely potent and addictive Opioid. Mr.Pandya has further submitted that Tramadol that was being attempted to be exported to Africa by the applicant accused - Rohit Madariya was not to be sold in India, however, dangerously addictive Opioids like Tramadol cannot be allowed to be sold indiscriminately and illegally by Indians anywhere in the world and this Court may not show any mercy to the person who is hand-in-glove with the international drug cartel NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined members for making huge pecuniary profits and producing new drug-addicts in the world community. Mr.Pandya has further submitted that the applicant accused has connived with Dhaval Kamani (Director) to disable the CCTV cameras and remove the DVR installed at the factory/godown premises and also deleted chats/data from his mobile phone related to one Salman Bhai before reaching ICD Sanand on the day of seizure i.e 22.6.2023. Mr.Pandya has further submitted that the intended importer of the consignment i.e Salman Bhai of Kin Medico Plus Kinshasa, Democratic Republic of Congo did not have permission to import

Tramadol in his country. Mr.Pandya has further drawn the attention of this Court to the fact that although the complaint has been filed in the present case, however the investigation is still continuing on various aspects like financial aspect, money laundering, examination of CHA and other operational staff involved in day to day operation of the company etc. and if the applicant accused is released on bail, in all probabilities, he will tamper with the evidences and may not be available to face the trial.

NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined 10.3 Mr.Pandya has further submitted that as far as the plea of applicant accused is concerned that the investigation is over and the chargesheet has been filed, it is hereby re-iterated that it is not a ground for bail in serious offences like this, more particularly, as the grounds of bail are not changed in the present circumstances. Mr.Pandya has further submitted that the applicant accused is facing very serious charges and it is a case of commercial quantity and therefore, the provisions of 37 of the N.D.P.S. Act would apply in the present case and therefore, the present bail application is liable to be rejected. It has been categorically stated that an accused of the offence under the N.D.P.S. Act should not be released on bail pending trial unless the mandatory conditions provided in section 37 are fulfilled i.e. there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely commit any offence while on bail. Mr.Pandya has further submitted that the offence committed by the accused is against society and prejudicial to the interest of general public, therefore, if NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined the accused is enlarged on bail, there is every probability/likelihood of his tampering with the prosecution evidence, hence, the accused deserves to be kept behind the bar and bail is not required to be granted. Moreover, the enlarging of accused on bail at this stage would encourage offenders of the like nature. Mr.Pandya has further submitted that as it is not a simple case of drug trafficking but a case of large scale manufacturing of contraband and considering the totality of facts and circumstances as well as the materials available against the present applicant, he may not be enlarged on bail. In support of his submissions, learned advocate Mr.Pandya, has relied upon the judgment of Hon'ble Supreme Court in the case of Narotics Control Bureau Vs. Mohit Aggarwal, reported in 2022 SCC Online SC 891 and requested this Court to reject the present application for regular bail.

11. While rejecting Criminal Misc. Application No.14373 of 2023 preferred by the applicant accused, this Court in its order dated 10.10.2023 has observed in NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined paragraph 8 that :

"8. At this stage, it would be fruitful to make reference to the decision of the Honourable Apex Court in regard to grant or refusal of bail under the provisions of Section 37 of NDPS Act. In the case of Union of India Vs Niyazuddin Sk and another, reported in 2017 (4) Crimes 384 (SC), the Hon'ble Apex Court while setting aside the order of the High Court granting bail to the accused indicted for possessing commercial quantity of contraband without discussing the two mandatory conditions appearing in section 37 of the Act viz; (1) the court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such offence & (2) the person is not likely to commit any offence on bail, while rejecting bail, in paras 7,

8 & 9 of the judgment held as under:-

NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined  
(7) Section 37 of NDPS Act contains special provisions with regard to the grant of bail in respect of certain offences enumerated under the said section. They are:-

(1) In the case of person accused of an offence punishable under section 19. (2) Under section

24. (3) Under Section 27A and (4) Of offences involving commercial quantity. The accusation in the present case is with regard to the fourth factor namely, commercial quantity. Be that as it may, once the Public Prosecutor opposes the application for bail to a person accused of the enumerated offences under section 37 of the NDPS Act, in case, the court proposes to grant bail to such person, two conditions are to be mandatorily satisfied in addition to the normal requirements under the provisions of the Cr. PC or any other enactment, (1) the court must be satisfied that there is reasonable ground for believing that the person is not guilty of such NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined offence; (2) that person is not likely to commit any offence while on bail.

(8) There is no such consideration with regard to the mandatory requirements, while releasing the respondents on bail.

(9) Hence, we are stratified that the matter needs to be considered afresh by the High Court. Impugned order is set aside and the matter is remitted to the High Court for fresh consideration. It will be open to the parties to take all available contentions to the High Court.

12. At this stage, it is worthwhile to refer to the recent decision of the Honourable Apex Court in the case of State by the Inspector of Police Vs B.Ramu rendered in Criminal Appeal arising out of SLP (Criminal) No.8137 of 2022 on 12.2.2024 wherein in paragraphs 9, 10, 11 and 12 the Honourable Apex Court has observed as under.

NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined "9. A plain reading of statutory provision makes it abundantly clear that in the event, the Public Prosecutor opposes the prayer for bail either regular or anticipatory, as the case may be, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail.

10. It is apposite to note that the High Court not only omitted to record any such satisfaction, but has rather completely ignored the factum of recovery of narcotic substance (ganja), multiple times the commercial quantity. The High Court also failed to consider the fact that the accused has criminal antecedents and was already arraigned in two previous cases under the NDPS Act.

11. In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents.

12. For entertaining a prayer for bail in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act."

13. By now it is well settled that in case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused and admittedly, in the present case, the recovery of Tramadol powder is more than the commercial quantity.

14. Therefore, the decisions rendered by the Hon'ble Apex Court in Niyazuddin Sk's case & State by the Inspector of Police Vs B.Ramu (supra) make the legal proposition abundantly clear and also settles the legal controversy at NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined rest that in case of the accusations against accused regarding possession of commercial quantity of the contraband, the court has to render findings regarding, (i) the court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such offence & (ii) the person is not likely to commit any offence on bail, and if these conditions are not satisfied by the court, the accused is not entitled bail.

15. This Court while rejecting the regular bail application of the applicant accused vide its order dated 10.10.2023 passed in Criminal Misc. Application No.14373 of 2023, has observed in paragraphs 11, 12, 13, 14 and 15 as under.

"11. It is apt to mention here that the Hon'ble Apex Court in the case of N.C.B Vs Krishan Lal, reported in AIR 1991 S.C 588 held that unless conditions prescribed under section 37 of the NDPS Act are not fulfilled, the court has NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined no discretion to relax these conditions in order to give the benefit of bail to an accused.

12. In the present case, as per the case of the prosecution, the respondent No.2 received specific information that a pharmaceutical company i.e. Agonist Pharmaceuticals Private Limited, Plot No.20, Somnath Industrial Estate, Kerala GIDC, Bavla - Bagodara Highway, Bavla, Ahmedabad are trying to export one product in around 400 drums which they have declared as 'SILDENAFIL MICRO GRANULES BP 90%. Such product is stuffed in a container bearing number PONU0047066 and is destined for Congo, Africa via ICD, Sanand. However, out of the 400 drums, 25 contain Tramadol, a psychotropic substance in powder form and not the declared SILDENAFIL MICRO GRANULES BP 90%. In pursuance of this information, the officers of the respondent No.2 in the presence of the independent panch witnesses NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined went to the office and called the applicant accused who is one of the Directors of M/s Agonist Pharmaceuticals Private Limited and Shri Ankit Patel and in their presence, inquired about the container bearing number PONU0047066 to which they were

informed that the container is lying in the container yard. The door of the container was inspected and in the presence of the applicant and others, it was found that the door of the container was sealed with Maersk Shipping Line bottle seal bearing No.ML IN0797344 and the seal was opened and it was found that the container was stuffed with blue coloured HDPE drums which were unloaded from the container and on counting, they were found to be 399 in number. All the drums had stickers pasted on the drums which stated "Sildenafil Microgranules B.P. 90%, Batch No.AP138, MFG Date 06/2023, retest date 05/2026, Mfg.Lic.No.G/25/2307, Gross Wt. 27.00 kg, Net NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined Wt. 25.00 kg." Out of these 399 drums, randomly four drums bearing numbers 86, 95, 240 and 363 were chosen and opened after cutting the seal on their metallic neck and drum Nos.240 and 363 contained white coloured granular substance, whereas drum nos.86 and 95 contained off-white powder substance put in transparent bags and having a strong characteristic odour and colour. The randomly opened drums were inquired about and it was the present applicant accused who disclosed that the substance in drum Nos.86 and 95 is Tramadol, whereas other drums contained Sildenafil Microgranules B.P. 90%. Thereupon, it was found that drums from serial numbers 77 to 101 contained Tramadol and all these drums were misdeclared as Sildenafil Microgranules B.P. 90%. The entire panchnama was drawn up in the presence of the applicant accused and independent panch witnesses, as also other NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined persons including Mr.Ankit Patel. During the investigation, it was found that 500 kgs of Tramadol which were found in drum Nos.77 to 101 were received by the applicant from EMMENNAR Pharmaceutical Private Limited and were purchased to be sold to Mega Pharma Sarl in Bamaco Mali Africa but as the import permission letter for Tramadol powder was not received, it was kept in factory. That it was also found that there was no permission to receive Tramadol powder in Democratic Republic of Congo, but purchase order for 10,000 kgs of Sildenafil Microgranules B.P. 90% were received and 9500 kgs Sildenafil Microgranules B.P. 90% and 500 kgs Tramadol powder was to be sent in the container.

13. It can also be noticed that the prosecution has recovered contraband at the instance of the applicant accused and the prosecution has prima facie shown the full NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined involvement of the applicant accused. It is apt to reiterate here that the contraband i.e. TRAMADOL seized from the factory premises is of commercial in nature weighing 500 kgs. It can be seen from the material made available to this Court that the applicant accused came to be arrested on 1.7.2023. The contraband i.e. TRAMADOL came to be seized from the factory premises on 22.6.2023. The investigation in the matter is at initial stage and the chargesheet is not filed. It is the contention of learned senior advocate Mr.Unwalla that the applicant is holding the license but the validity of the same is yet to be ascertained and even if it is found to be valid, that does not permit the holder of the license to conceal/mis-declare the Tramadol Powder as some other medicine (Sildenafil Micro Granules 90% BP in this case) and there are multiple conditions to be adhered to while selling and transporting the Tramadol Powder. It can also be NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined seen from the panchnama proceedings at ICD Sanand on 22.06.2023 from where the applicant was attempting to illegally export the said consignment to Democratic Republic of Congo and during the said panchnama proceedings, the applicant himself identified the drums in which he had mis-declared/concealed the said Tramadol Powder as Sildenafil Micro Granules 90%



BP. It also appears that another director of the company M/s.Agonist Pharmaceuticals Pvt. Ltd. i.e. Dhaval Kamani who has actively conspired in the aforesaid offence is on the run since the date of the seizure and a summons to record his statement has been sent to his available address. In the facts of the present case, this Court is of the considered opinion that there are reasonable grounds for believing that the applicant accused is guilty of the offence and there is possibility of the applicant accused commit a similar offence. Moreover, prima facie, NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined it appears that if the applicant accused is enlarged on bail, he will try to tamper with the evidence which is yet to be collected or influence the witnesses which are yet to be examined in this case as the chargesheet has not yet been filed.

14. This Court has also considered the decisions relied upon by Mr.Unwalla in support of his submissions and is in agreement with the law laid down by the Hon'ble Apex Court in the decisions cited by the learned Senior Advocate for the applicant, but in the facts of the case on hand, the same are not applicable to the facts of the case. This Court has also considered the decision of Hon'ble Apex Court in the case of Narotics Control Bureau Vs. Mohit Aggarwal (supra).

NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined

15. At the same time, this Court cannot lose sight of the fact that the menace of the crime of smuggling of contraband drugs is on increase and therefore, the perpetrators of the crime who are destroying society and the younger generations rendering them incapacitated by falling prey to drug abuse must be dealt with iron hands. The crime alleged against applicant accused is against society and by such criminal activities, the young generation of the country are destroyed. Such type of offences are to be dealt with severity and heavy hands and leniency in such matters would be a case of misplaced sympathy. The criminal act of the applicant/accused operating in a manner as one of the members of drug cartel manufacturing commercial quantity of contraband Alprazolam is destructive, and is aimed to destroy the social fiber of the country, therefore, curtailment of his liberty is reasonable. The granting of bail to the NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined applicant accused would lead to the danger of the course of justice being thwarted. This Court, therefore, holds that this is a fittest case where discretion cannot be exercised in favour of the applicant accused, more particularly, when the investigation is at the initial stage and chargesheet is not yet filed."

16. At present, the chargesheet against the applicant accused is filed but considering the provisions of section 37 of the NDPS Act, there are no prima facie grounds to believe that the applicant accused is not guilty of the offence and that he is not likely to commit any offence while on bail. As can be seen from the materials made available to this Court that the applicant accused is involved in a very serious offence involving a commercial quantity of Tramadol and this Court is of the considered opinion that the conditions of Section 37 are not satisfied.

17. In view of the above discussion and considering the decisions of the Honourable Apex Court in the case of NEUTRAL CITATION R/CR.MA/708/2024 ORDER DATED: 12/03/2024 undefined Narcotics Control Bureau Vs Mohit Aggarwal and State by the Inspector of Police Vs B.Ramu

(supra) referred above and also considering the provisions of Section 37 of the NDPS Act, this Court is satisfied that there is reasonable ground for believing that prima facie, the applicant accused is involved in the offence in question and that learned advocate Mr.Pandya has vehemently opposed the present application for regular bail, as stated above, this Court does not see any reason to enlarge the present applicant on bail and therefore, the present application deserves to be dismissed and the same is dismissed. Accordingly, Rule is discharged.

(S. V. PINTO,J) H.M. PATHAN