

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CRIMINAL APPELLATE JURISDICTION

## CRIMINAL BAIL APPLICATION NO.1006 of 2014

Ramshiromani A. Pandey .. Applicant  
*Versus*  
The State of Maharashtra .. Respondent

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Mr.Anil G.Lalla with Ms.Beerta H. Bajwa and Ms.Tejashree Panchal,  
Advocates for the applicant.

Ms.V.S.Mhaispurkar, APP for the Respondent State.

PSI Mr.B.M. Nimbalkar from ANC Bandra Unit present.

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**CORAM : ABHAY M. THIPSAY, J.**

**DATED : 31<sup>st</sup> JULY, 2014.**

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**P.C. :**

1 Heard Mr.Anil G. Lalla, learned counsel for the applicant.  
Heard Ms.V.S.Mhaispurkar, learned APP for the State.

2 The applicant is an accused in NDPS Special Case No.54 of 2014 pending before the Special Court under the NDPS Act, at Mumbai. The case of the Investigating Agency is that on receipt of secret information at about 9.00 a.m on 28<sup>th</sup> February 2013, that one Ramshiromani Pandey i.e. the applicant, one Santosh Kumar and one Vidya Prasad were to come to Saki Naka, Andheri (East) for selling *ketamine*, a trap was laid and the applicant, as also the other two, were apprehended at Saki Naka. It is the case of the Investigating Agency that the personal search of the applicant and the other accused, was

taken and that 7 kgs of *ketamine* and some cash was found with the applicant which was seized under a panchnama.

3           The contention of the applicant is that the prosecution case is false. According to him, he was arrested much prior to 28<sup>th</sup> December 2013. According to him, after his arrest, he was taken to his house at about 2.30 a.m on 28<sup>th</sup> December 2013 by the Officers of the Anti Narcotics Cell, as also the Crime Branch.

4           According to the learned counsel for the applicant from the CCTV footage that has been captured, the fact of the applicant being taken to his own house at about 2.30 a.m on 28<sup>th</sup> December 2013 by the officers of police, can clearly be seen. That such CCTV footage exists, was pointed out to the trial court also, as is clear from the order passed by it. The photographs taken from the footage, in that regard, are shown to this Court also.

5           The trial court accepted the existence of such material, but held that this material was being put forth by the applicant after a gap of about four months from his arrest, and that therefore, the photographs could not be accepted as *evidence against the prosecuting agency*. The trial court has totally misdirected itself. The question is whether there are reasonable grounds for believing that the applicant is not guilty of the alleged offence. If there are reasonable grounds for believing that the applicant was apprehended not at the place and time as claimed by the Investigating Agency, that itself would create reasonable grounds for believing him to be not guilty of the alleged offences. The question of delay would be material only for judging the genuineness or authenticity of the CCTV footage, but the learned Judge of the trial court has not

come to a conclusion that the record in that regard is false or fabricated. Moreover, it is nobody's case that the Investigating Officers had an occasion to visit the applicant's residence along with the applicant at any time. Therefore, even if it is held that it would be possible to manipulate the date and time of the CCTV footage, still, there is, at the moment, no explanation of the fact that these officers and the applicant are seen in the CCTV footage.

6           The learned APP submits that this aspect could be considered only during the trial. I am unable to accept this. This can be considered at this stage also ,though only for ascertaining whether or nor, there are reasonable grounds for believing that the applicant is not guilty of the alleged offence.

7           Application is allowed.

8           Applicant is ordered to be released on bail in the sum of Rs.1,00,000/- (Rupees One lakh only) with one surety in like amount, or two sureties in the sum of Rs.50,000/- (Rupees Fifty thousand) each, on the condition that he shall report to the office of the Investigating Agency at 10.00 a.m on the first Monday every calendar month, till the disposal of the case against him.

9           The trial court shall expedite the trial, and endeavour to complete it within a period of nine months from today.

**(ABHAY M.THIPSAY, J)**