

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

941 BAIL APPLICATION NO.1718 OF 2021

1. SHAIKH MOBIN SHAIKH RAFIQ
2. FARID QURESHI BABA QURESHI
3. SHAIKH ASLAM SHAIKH MUSHIR
4. SHAIKH NAJIB SHAIKH RAFIQ
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Tilve Akshay Subhash
APP for Respondents/State : Mr. V.S. Badakh
...

CORAM : M.G. SEWLIKAR, J.
DATE : 13th January, 2022

PC.:-

Heard.

2. All the four applicants were arrested as they were found possessing contraband articles i.e. tablets containing Nitrazepam 10 mg. Following is the chart indicating tablets found in possession of the applicants:

<i>Name of the accused</i>	<i>No. of tablets</i>	<i>Mg</i>	<i>Total Mg</i>	<i>Quantity</i>
Shaikh Mobin	100	.10 mg	1000 mg	Small
Farid Qureshi	50	.10 mg	500 mg	Small
Shaikh Aslam	30	.10 mg	300 mg	Small
Shaikh Najib	10	.10 mg	100 mg	Small

3. The above chart clearly shows that the tablets in possession of each of the applicants is of a smaller quantity. Learned APP Shri Badakh has placed on record communication from the Investigating Officer giving details of the tablets and the quantity found in possession of each of the applicants. In terms of schedule of NDPS Act smaller quantity is 20 grams. Learned APP Shri Badakh also concedes that it is a smaller quantity. It is a bailable offence in terms of Section 22-A of the NDPS Act. Section 328 of the I.P.C. has also been applied. In order to invoke Section 328 there has to be some evidence to indicate that applicants had administered or caused to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug. In the case at hand, no such allegations are found in the FIR. In this view of the matter, I am inclined to release the applicants on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicants be released on PR bond of Rs.15,000/- each with one solvent surety in the like amount each, in connection with Crime No.463 of 2021 under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and under Section 18(c), 27 of the Drugs and Cosmetic Act and Under Section 328, 276 read with Section 34 of the I.P.C. with Begumpura Police Station, Aurangabad.

- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]