

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2176 OF 2021**

Hamdul Ali Khudabaksh & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr.Zoheb D. Shaikh for the Applicant.

Ms.Veera Shinde, A.P.P. for the State/Respondent.

PSI V.S.Sawant attached to Sewree Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 13th SEPTEMBER, 2022

P.C:-

1. The applicants are charge-sheeted under Section 8(C) 22(C) & 29 of the NDPS Act for alleged possession of commercial quantity of Heroin. The applicants came to be arrested on 19/06/2018 and presently, they are under detention, awaiting their trial.

2. Heard the learned counsel for the applicants and the learned A.P.P. for the State.

Learned counsel for the applicants would submit that the report of analysis of the alleged substance, which was seized during the raid, reveal that it was not 'Heroin' but 'Alprazolam', a psychotropic substance under the NDPS Act. He would submit that there are various infirmities in the process of search and seizure, which entitle them to be released on bail.

Learned A.P.P. states that the charge is already framed and the trial has commenced.

The above statement is not disputed by the learned counsel for the applicants, but he submits that charge has been framed on 07/02/2021, whereas the first witness put his appearance in the trial on 08/06/2022. There is no explanation offered for the aforesaid delay. Considering the long incarceration of the applicants for more than 4 years, I deem it appropriate to issue the following directions :-

(a) The learned Special Judge for N.D.P.S. cases at Gr.Mumbai, who is seized of NDPS Special Case No.208 of 2018, shall fix the time schedule for trial of the said case.

(b) In accordance with the said schedule, the witnesses shall be summoned with summons, issued in advance and on the given date, the witnesses shall be examined/ cross-examined.

(c) An advance intimation shall be sent to the jail authorities so that the presence of the accused can be secured at the time of trial.

(d) NDPS Special Case No.208 of 2018 shall be culminated, as expeditiously as possible, and in no case, later than four months from today.

2. With the aforesaid directions being issued, the application stands disposed off.

3. Needless to state that I have no expressed any opinion on the merits of the matter and in case the trial is not concluded within the aforesaid period, the applicants are at liberty to renew his request, once again before the trial Court.

(SMT. BHARATI DANGRE, J.)