

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3076 OF 2021

Sajid Yusuf Electricwalla

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Tabish Mooman for the Applicant.

Mr. A.M. Chimalker, Spl. PP for ATS with Ms Sharmila S. Kaushik, APP for Respondent-State

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 31st MARCH, 2022.

P.C.:-

1. This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicant, who is facing trial in NDPS Special Case No.226 of 2015 on the file of learned N.D.P.S. Special Judge, Sessions Court, Greater Bombay for offences punishable under Sections 8(c), 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985('NDPS Act')

2. It is the case of the prosecution that on 29/06/2015 the ATS officers received information about some nefarious activities of accused No.1 involving crime under the NDPS Act. The accused No.1 was apprehended near a place at Shreeji hotel at Oshiwara, Mumbai. He was

found in illegal possession of 1 kg of Mophedron (MD), contraband substance under the NDPS Act. In the course of the investigation it was noticed that the Applicant (accused No.2) was also involved in the said crime. A search of flat No.503 was taken where they noticed that the Applicant was involved in manufacturing of drug (MD) and 100kg of MD, which was in the process of manufacturing was seized. Upon completion of the investigation the Applicant was arrested on 29/06/2015 and charge sheet came to be filed.

3. The Applicant herein had filed bail application bearing Criminal Bail Application No.2368 of 2017. The same was withdrawn. Considering the fact that Applicant was in custody for three and half years, this Court (Coram: Prakash D. Naik, J.) issued directions to conclude the trial as expeditiously as possible and within a period of one year from the date of the order. The trial was not concluded within one year as per the directions vide order dated 26/11/2018. It is stated that till date 12 witnesses are examined and 20 witnesses are yet to be examined. The Applicant is in custody over seven and half years while the offences are punishable with minimum sentence of imprisonment for 10 years. It is stated that several other matters wherein directions have been issued for expeditious disposal are pending before the Sessions

Court. It is thus evident that the trial will not be concluded in near future.

4. Learned counsel for the Applicant has placed on record judgment of this Court in ***Sachin Vartak vs. The State of Maharashtra in Bail Application No.430 of 2021***, wherein in the similar set of facts this Court had held that prolonged custody infringes the fundamental right under Article 21 of the Constitution of India. As noted above, the Applicant is in custody over seven and half years. The trial is not likely to conclude in the immediate future. On this ground alone the Applicant is entitled for bail.

5. Mr. Chimalkar, learned Spl. PP for ATS states that the Applicant is involved in threatening the witnesses. However, apart from making this statement, he has not been able to place before the Court any details about the said incident. Hence, the bail cannot be rejected on the basis of such vague statement.

6. Hence, the application is allowed on the following terms and conditions:-

(i) The Applicant, who is facing trial in NDPS Special

Case No.226 of 2015 on the file of learned N.D.P.S.

Special Judge, Sessions Court, Greater Bombay be released on bail on furnishing bail bonds in the sum of Rs.2,00,000/- with one or two sureties to the like amount.

- (ii) The Applicant shall report to the ATS Unit at Charkop, Mumbai, on every Monday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.
- (iii) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and /or change of residence or mobile details, if any, from time to time.
- (iv) The Applicant shall co-operate with the conduct of the trial and attend the Trial Court on all dates, unless exempted.
- (v) The Applicant shall not interfere with the witnesses and /or tamper with the evidence in any manner.
- (vi) The Applicant shall not leave the country without prior permission of the Court.

7. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)