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

BAIL APPLICATION NO.2335/2022

AFROZ SHAIKH ..APPLICANT
VS.
STATE OF MAHARASHTRA ..RESPONDENT

Mr. Bablu J. Shaikh for the applicant.
Mr. S. H. Yadav, APP for State.
Mr. Jitendra Kadam, PSI, Tilaknagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 1, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for pre-arrest bail in connection with C.R.No.130/2021 registered with Tilak Nagar Police Station, for the offence punishable under Sections 8(c), 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on November 25, 2021. The applicant was arrested on January 3, 2022.
3. It is alleged that the accused no.1 was found in

possession of 610 bottles of Codeine phosphate and chlorpheniramine maleate syrup 100 ml Escuf cough syrup. In the course of the interrogation, the accused no.1 disclosed that the present applicant gave those bottles to him for sale. The applicant was not found in possession of the bottles. Except for the statement of the co-accused that the applicant gave those bottles to him for sale, there is nothing on record to indicate that the bottles belonged to the applicant or that the same had passed through him. There are no criminal antecedents recorded against the applicant.

4. I have heard learned APP who has opposed this application.

5. The applicant is a physically handicapped person suffering from disability of more than 60%. The prosecution has alleged that there is a conspiracy between the accused no.1 and the present applicant for sale of the aforesaid cough syrup. Admittedly, the quantity seized from the accused no.1 was commercial quantity. In my opinion, having regard to the materials on record, *prima facie*, I am

of the opinion that the materials on record may not be sufficient to establish the offence against the applicant though a huge quantity was recovered from accused no.1 and the offence under the NDPS Act is serious. The applicant is suffering from disability of more than 60%. He is handicapped and wheelchair bound.

6. Considering that there are no criminal antecedents and the applicant was not found in possession of any incriminating material to connect the applicant with what is found in possession of the accused no.1, the applicant deserves to be released on bail. The applicant is in custody for almost 11 months. Hence the following order.

ORDER

- (a) Application is allowed.
- (b) Applicant-Afroz Shaikh shall be released on bail in connection with C.R.No.130/2021 registered with Tilak Nagar Police Station, on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (c) The applicant shall not directly or indirectly make

any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) The applicant shall report to the Investigating Officer once in a fortnight on every 1st and 15th day of the month till the trial is over.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not reside within the jurisdiction of the Tilak Nagar Police Station and enter Tilak Nagar only for the purpose of reporting.

7. The application is disposed of.

(M. S. KARNIK, J.)