

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4250 OF 2021

Mohammed Gulfam Mohammed Ejaj .. Applicant
Khan

Versus

The State of Maharashtra .. Respondent

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Mr. Avdhesh Kanojia, with Salman J. Shaikh and Arjun Choudhary for the applicant.
Mr. S.V.Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 19th SEPTEMBER 2022

P.C:-

1 The applicant is charged for the offence punishable under Sections 8(C), 20 and 22 of the NDPS Act, 1985 and he seek his release on bail.

2 Heard learned counsel for the applicant and the learned APP for the state.

3 The case of the prosecution is that during the patrolling round, they found the applicant stranded near Khan Abdul Gaffar Khan Road, and on his suspicious behaviour, the

independent witnesses were called on the spot and the applicant was found in possession of two polythene bags, the search of which led to 45 sealed bottles of Chlorpheniramine Maleate and Codein Phosphate syrup 100 ml Cefrex cough syrup and 3.440 grams of *ganja*. The search led to the discovery of the above substance. Samples were prepared on the spot and after drawing the panchnama, which recorded the sealing, labelling and packing of the contraband, FIR No.57/2021 was lodged by the ANC Worli Unit, Mumbai. On completion of investigation, charge-sheet has been filed. Prima facie, it is a clear case where the applicant is found in possession of the substance.

Though the counsel for the applicant would vehemently submit that he was not apprised of his right u/s.50 of the NDPS Act, which has caused a great prejudice to him, on perusal of the complaint, it can be clearly seen that he was apprised of his right to be served before the Magistrate or a Gazetted officer, which was explained to him in Hindi language, to which in writing he has responded by permitting the Officer of the NCB to carry out his search.

This being clearly recorded in the panchnama as well as the complaint, it is not a case where there is infraction of Section 50.

4 With the material colated against the applicant which would be sufficient to establish his guilt under the section with

which he is charged, he do not deserve his release merely on the ground that he has no antecedents.

Application is rejected.

(SMT. BHARATI DANGRE, J.)