



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

BAIL APPLICATION NO. 291 OF 2023

IMTIYAZ SATTAR SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Ms. Deepa Amati Muttagi i/b Ms. Munira Palanpurwala, for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

PSI- Ravindra Jedhe, Govandi police station present.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 1, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offences punishable under sections 8(c) r/w 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on 04/05/2022 vide C.R. No.197 of 2022 with Govandi police station. The applicant was arrested on 04/05/2022.

3. The concerned unit of the respondent was on patrolling duty. The movements of the applicant were found suspicious. The applicant was therefore searched on 04/05/2022 at around 10.30 a.m. As per inventory

panchanama, the applicant was found in possession of 52 grams of contraband Maphedrone which is a commercial quantity.

4. Learned APP opposed the application for bail. It is the submission of learned APP that the rigours of section 37 of the NDPS Act would therefore apply. It is submitted that MD which is found on his person is a commercial quantity. It is further submitted that there is complete compliance of sections 42 and 50 of the NDPS Act.

5. However, reading of inventory panchanama reveals that contraband was weighed along with plastic bag in which the said drug was found. The applicant was found in possession of quantity of 2 grams more than the minimum quantity which is prescribed as a commercial quantity by the NDPS Act.

6. Learned counsel for the applicant relied upon the order dated 10/03/2023 passed in Criminal Bail Application No. 2046 of 2023 in case of Mahesh Netraprasad Sharma Vs. The State of Maharashtra in support of his submissions. Paragraph 5 of the said order which is relevant reads thus :

“The learned Counsel for the applicant has drawn my attention to the seizure panchanama dated 7

January 2021. It appears that the weight of charas, which was allegedly found in possession of the applicant and other co-accused is inclusive of plastic bag wherein it was kept. According to the notification issued under Section 2 of the NDPS Act, possession of 1kg or above is commercial quantity. Thus in a case like this the weight of the plastic bag ought to have been excluded as only 10 gms. of charas was above the commercial quantity. The applicant is in jail for more than 2 years. There are no other criminal antecedents."

7. The applicant is in custody from 04/05/2022 for a period of almost 17 months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. The trial is likely to take some time to conclude. There are no criminal antecedents reported against the applicant. In the facts and circumstances of the present case, for the reasons aforesaid, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Imtiyaz Sattar Shaikh in connection with C.R. No. 197 of 2022 registered with Govandi police station shall be released on bail on his furnishing P.R. Bond of Rs.1.00,000/- with one or more solvent sureties in the like amount.

(c) The applicant shall attend the investigating officer of Govandi police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) 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.

(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 attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall not leave the country without permission of the trial Court.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

8. The application is disposed of.

(M. S. KARNIK, J.)