

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

BAIL APPLICATION NO. 706 OF 2022

Aslam Dawood Patel

..Applicant

VS.

The State of Maharashtra

..Respondent

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Adv. Shadab B. Khopekar for the Applicant.

Mr. S. V. Gavand, APP for the State.

Mr. Yogesh Janardan Thombare, PI, Bhayandar Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 13, 2023

P.C. :

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

2. This is an application for bail by the applicant-Aslam Dawood Patel in connection with C.R. No.I-467 of 2021 dated 12/11/2021 registered with Bhayandar Police Station for the offence punishable under Sections 8(c), 21(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short).

3. The applicant is the accused No.2. The accused No.1 was searched and in his possession the contraband

substance purported to be Mephedrone 5 grams came to be seized. During the course of interrogation, the accused No.1 named the present applicant (accused No.2) as the supplier. The house of the applicant was searched and the applicant was found in possession of 12 grams Mephedrone. Admittedly the quantity is a non-commercial quantity. The applicant as well as the accused No.1 came to be arrested on 12/11/2021.

4. The accused No.1 approached the Sessions Court for bail. The Special Judge granted bail to the accused No.1 observed thus :-

"12] It is further to be determined in the circumstances when the contravention involves greater than small quantity or as submitted lesser than commercial quantity. Further consideration and safeguard should be taken into consideration as these offences are relating to society and public at large.

13] As observed the trial may take considerable time and it looks towards that applicant/accused who are in jail, are to be remain in jail, longer than the period of detention had they been convicted. While deciding bail application an important point which certainly taken into consideration by the Court the delay in concluding the trial. Further it is to be taken note quantity seized non commercial quantity.

14] It is pertinent to note as of now investigation is completed and chargesheet is filed. Applicant/accused is shown in custody since 12/11/2021. Furthermore prosecution has also not came out with the case as to applicant/accused has a criminal background or

antecedents to his credit. No further purpose will be served by keeping accused/applicant behind the bar. Considering the above factual aspects and in the light of the present circumstances applicant/accused, has made out case for bail. Apprehension of prosecution can be safeguarded by imposing certain stringent conditions on the applicant/accused. It is made clear the observations made herein are for the limited purpose for deciding the present application, it shall not have effect on merits of the case."

5. Even from the applicant non-commercial quantity was seized. On the ground of parity even the present applicant can be released on bail. There are no criminal antecedents reported against the applicant. The present applicant can be enlarged on bail on the same conditions as imposed by the Special Judge in respect of the co-accused. Hence, the following order :-

ORDER

- (a) Bail Application No.706 of 2022 filed by applicant Aslam Dawood Patel is hereby allowed.
- (b) Applicant/accused shall be released on bail in C.R. No.I-467 of 2021 registered with Bhayandar Police Station on furnishing P.B. & S.B. of Rs.2,00,000/- (Rs. Two Lakh only) with two solvent sureties in like amount and on furnishing documents showing their proof of residential addresses.
- (c) He shall attend concerned police station on every Tuesday and Saturday between 10.00 a.m. to 2.00

p.m. until framing of charge.

(d) He shall not directly or indirectly make any inducement, threat or promise to any persons acquainted with fact of the case.

(e) Applicant/accused shall not indulge into similar activities and repeat the offence while on bail.

(f) He shall not permanently leave Jurisdiction of concerned Police Station without prior permission of Court.

(g) Investigating Officer to initiate action on any breach of conditions committed by applicant/accused.

(h) He is further directed to maintain the attendance diary of visit to the police station and he should be present on each and every date before the Court.

(i) He shall furnish documents regarding his present residential address alongwith details and documents of his two close relatives and native place address before the Court at the time of furnishing PR bond and to submit the same before IO.

6. The application is disposed of.

(M. S. KARNIK, J.)