



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

BAIL APPLICATION NO. 903 OF 2023

SOHAIL SAGIRALI SAYYAD

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Anil G. Lalla a/w Mr. Aditya Singh i/b Lalla and Lalla, for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

API- D.M. Nalawade, ATS Thane Unit present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 08, 2023

P.C. :

1. Heard learned counsel for the applicant, Learned APP for the State opposed the application.

2. This is an application for bail in respect of the offence punishable under section 120(b) of the Indian Penal Code, sections 8(c) read with 20, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on 30/10/2020 vide C.R. No.8/2020 with Anti Terrorism Squad Thane Unit Police Station.

3. The applicant was found in possession of 60.10 grams of

contraband 'Maphedrone' which is a commercial quantity. The applicant was found in possession of 10.10 gram more than the intermediate quantity and therefore the rigours of section 37 of the NDPS Act will be attracted. In the present case, the contraband was allegedly found in the left pocket of the applicant.

4. Learned APP opposed the application for bail and submitted that the applicant has been properly informed of his right and there is no breach of section 50 of the NDPS Act. Learned APP further submitted that in this case it is not as if member of the raiding party informed the applicant that he is a gazetted officer but he informed the applicant that he is a police inspector. It is further submitted that the contentions of the applicant regarding variance in the notice and the panchanama are the aspects which can be considered at the stage of trial.

5. In the notice dated 30/10/2020, while informing the applicant his right, the applicant was informed that the member of the raiding party was a police inspector. He informed that the applicant has a right to be searched before the gazetted officer or Magistrate instead of the member of the raiding party who was a police inspector. The panchanama which is dated 30/10/2020 is at variance with what is

stated in the notice on some aspects. In the said panchanama, it is recorded that the applicant was informed that he can be searched by any other Magistrate or a gazetted officer which is his right if he asks for it.

6. Moreover, I find that the applicant is in custody for a period of 2 years and 11 months with no possibility of trial concluding any time soon. In the present facts, I am satisfied that the rigours of section 37 can be overcome.

7. There are no criminal antecedents reported against the applicant. I am satisfied that the applicant can be enlarged on bail. There is nothing on record to indicate that there is likelihood of the applicant committing any such offence in the future. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Sohail Sagirali Sayyad in connection with C.R. No 08/2020.registered with Anti Terrorism Squad Thane Unit Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1.00,000/- with one or more solvent/local sureties in the like amount.

(c) The applicant shall attend the investigating officer of the concerned 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.

(f) 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.

8. The application is disposed of.

(M. S. KARNIK, J.)