



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

BAIL APPLICATION NO. 1029 OF 2023

MOHD. HARUN ABDUL SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Veerdhawal Deshmukh, for the Applicant.

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

PSI-D.C.Kini, Anti Narcotics Cell, Crime Branch, Thane.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 7, 2023

P.C. :

1. This is an application through jail.
2. Heard learned counsel for the applicant who is appointed by this Court to represent the applicant and learned APP for the State.
3. This is an application for bail through jail in respect of the offence punishable under sections 8(c), 20, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered vide C.R. No.16 of 2018 with Thane City police station.
4. There are in all 4 accused. The applicant is the accused no.4. The applicant was arrested on 22/03/2018.

5. The applicant was found in possession of 2 kg of Charas which is a commercial quantity. On the relevant date i.e. 22/03/2018 when the applicant along with 3 other accused came to be arrested, the applicant was found in possession of the commercial quantity of Charas. So far as the applicant no.1-Ishwarchand Ramkishan Agarwal is concerned, he was found in possession of 2 kg of Charas. Accused no.2- Mohammad Maqbool Abdul Gafar Bhat was found in possession of 2 kg of Charas. Accused nos. 1 and 2 have been enlarged on bail by this Court by orders passed in Criminal Bail Application No. 1027 of 2023 dated 18/10/2020 and Bail Application No. 1804 of 2023 dated 11/08/2023 respectively on the ground of long incarceration. So far as the accused no.3 - Mohsin who was found in possession of 3 kg of Charas arrested along with the present applicant, has been enlarged on bail by the Sessions Court. All the co-accused have been enlarged on bail. Learned APP opposed the application for bail contending that as the applicant was found in possession of commercial quantity, rigours of section 37 of NDPS Act are applicable.

6. Considering that the co-accused from whom similar

quantity of contraband is recovered and the co-accused from whom more quantify of contraband is recovered than the applicant have been enlarged on bail, on the ground of long incarceration of 5 years and 7 months, as well as parity, even the present applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mohd. Harun Abdul Shaikh in connection with C.R. No. 16 of 2018 registered with Thane City police station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties of the like amount, one of which shall be local sureties from Thane District.
- (c) The applicant shall mark his attendance to Thane City police station on first Monday of alternate month between 10:00 a.m. to 12:00 noon.
- (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.

7. The application is disposed of.

8. I appreciate the valuable assistance rendered by Mr. Veerdhawal Deshmukh, the learned Advocate, who appeared on behalf of the applicant at my request in this proceeding.

9. This order be conveyed by learned APP as well as Registry to the Superintendent of Thane Central Prison immediately so that the applicant can avail of this bail.

(M. S. KARNIK, J.)