



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

**BAIL APPLICATION NO.1146 OF 2023**

ADNAN GULAM DASTAGIR QURESHI ..APPLICANT  
VS.  
THE STATE OF MAHARASHTRA ..RESPONDENT

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Adv. Ayaz Khan a/w Adv. Dilip Mishra a/w Adv. Zehra  
Charania for the applicant.  
Mr. P. H. Gaikwad, APP for the State.  
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**CORAM : M. S. KARNIK, J.**

**DATE : SEPTEMBER 25, 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 offence punishable under Sections 8(c) read with 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short) registered on 21.10.2022 vide C.R. No.1056 of 2022 with Kondhwa Police Station, Pune.
- 3.** The date of the incident is 21.10.2022. The applicant was arrested on 21.10.2022. While on patrolling duty, the applicant's car was stopped on the basis of suspicion.

The search of the applicant resulted in seizure of 52 grams of substance called Mephedrone (MD). The contraband was seized under a panchanama dated 21.10.2022. The quantity is a commercial quantity and hence the rigours of Section 37 of the NDPS Act are applicable.

**4.** In the panchanama which is signed by the Police Sub Inspector Digambar Chauhan in the presence of Police Inspector Thopte, the procedure followed in respect of the seizure is set out. From the panchanama, it is revealed that there is compliance of Section 50 of the NDPS Act and therefore, I do not find any substance in the submission of learned counsel for the applicant that there is a breach of mandatory provisions of Section 50 of the NDPS Act.

**5.** The panchanama further records that two samples were drawn at the spot. The quantity seized was 52 grams of MD. Two samples of 5 grams each totaling 10 grams were drawn and the same was sealed and signed by the PSI and the panchas. The contraband weighing 42 grams and the two samples weighing 10 grams was deposited with Muddemal in charge of Kondhwa Police Station.

**6.** Learned APP while opposing the application for bail submitted that over and above 52 grams of MD seized from the applicant, 3 grams of MD was recovered from the house search. Thus, the total commercial quantity recovered is 55 grams.

**7.** The commercial quantity of MD as per the NDPS Act is 50 grams. What is recovered at the time of seizure is 2 grams more than minimum of the commercial quantity specified by the NDPS Act. 3 grams MD was recovered from the applicant in the house search.

**8.** The quantity recovered no doubt is a commercial quantity. The statement of Mr. Digambar Chauhan, PSI which is recorded does not mention anything about the samples being drawn at the spot. However, the panchanama records the drawing of the samples. This aspect of drawing samples in the panchanama is not corroborated by any other materials. The applicant is in custody for more than eleven months with no possibility of trial concluding anytime soon. I am of the opinion that the rigours of Section 37 of the NDPS Act can therefore be overcome in the present

case as I have reasonable grounds for believing the applicant prima facie is not guilty of committing the said offence. It is made clear that these observations are prima facie in nature, not to influence the trial Court, made in the peculiar facts where the circumstance that the applicant was found in possession of just 5 grams more than the minimum commercial quantity of 50 grams prescribed for the contraband is factored by me while considering this application. Considering that there are no criminal antecedents reported against the applicant, I am satisfied that it is unlikely that the applicant will commit any offence while on bail. In any case, I am inclined to impose certain stringent conditions while enlarging the applicant on bail. Hence, the following order :-

### **ORDER**

- (a) The application is allowed.
- (b) The applicant-Adnan Gulam Dastagir Qureshi in connection with C.R. No.1056 of 2022 registered with Kondhwa Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Kondhwa 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 not leave Pune district without the leave of the trial Court.

**9.** The application is disposed of.

**(M. S. KARNIK, J.)**