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

BAIL APPLICATION NO. 2223 OF 2022

Shabbir Naseem Shaikh ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr.Anjali Patil, for the Applicant.
Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 25, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No. 410 of 2021 dated 25/12/2021 registered with Daighar Police Station for the offence punishable under sections 8(C), 22(B), 27, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short).
- 3.** The date of the incident is 25/12/2021. It is alleged that from one of the co-accused i.e. accused no.1, quantity of 6.31 grams MD was found. Based on the statement of

the co-accused, the applicant was arrested on 04/03/2022. The co-accused was found in possession of intermediate quantity of psychotropic substance-Mephedrone. The co-accused have been released on bail by an order dated 01/07/2022. The applicant is arrested only on the basis of the statement of the co-accused. Apart from the statement of the co-accused, there is no material against the applicant. No CDR call records are placed on record. Co-accused have been released on bail by the Sessions Court and what was found was quantity of Mephedron which is less than the commercial quantity and therefore it was observed that the provisions of section 37 of NDPS Act are not applicable. Against the applicant, there is one antecedent reported in respect of offence punishable under section 160 r/w 37(1)(a), 135 of Maharashtra Police Act, section 3, 4 r/w section 25 of Arms Act and section 8(c) r/w 20(b)(ii)(A) and 22(b) of NDPS Act. The applicant has been granted bail in respect of the said offence by order dated 17/09/2022. In that case, the present applicant was found in possession of 25 grams Mephedrone (MD), 11 gram

Charas, 1 Country made pistol, 13 live cartridges, 1 toy gun, 1 Electronic weighing scale, 10 zip plastic bag, 1 spoon and cash of Rs.35,060/-.

4. Considering that in the present case, there is no material against the applicant except the statement of the co-accused, and even as the co-accused has been found in possession of quantity less than the commercial quantity, the applicant can be released on bail. The antecedent which is reported against the applicant is in my opinion not sufficient to deprive the applicant the facility of bail having regard to the facts of the present case. However, while granting bail, stringent conditions need to be imposed to balance the antecedent. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant-Shabbir Naseem Shaikh in connection with C.R.No. 410 of 2021 dated 25/12/2021 registered with Daighar Police Station shall be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall reside outside the area of Mumbai and Thane till further orders, except for attending trial and reporting to the investigating officer once in a month on every Monday, 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 facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change

5. The application is disposed of.

(M. S. KARNIK, J.)