



PMB

947.BA.2004-23.odt

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

BAIL APPLICATION NO.2004 OF 2023

PARAG VITTHALBHAI SENJALIYA	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Adv. Dilip Mishra i/b. Adv. Zehra Charania for the applicant.
Ms. Veera Shinde, APP for the State.
API D. Patil, Kashimira Police Station.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 21, 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 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short) registered on 17.01.2023 vide C.R. No.II-33 of 2023 with Kashimira Police Station.
- 3.** The applicant was searched on 16.01.2023. The applicant was arrested on 16.01.2023. The search resulted in recovery of 6.8 grams of contraband Mephedrone. The same is an intermediate quantity less than commercial

quantity. The Panchanama was drawn. The charge-sheet has been filed.

4. Learned counsel for the applicant submitted that the samples were drawn at the spot. It is submitted that the offence is committed after Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022 came into force. It is the contention that in terms of the new Rules the samples are to be drawn before the Magistrate and not on the spot. It is submitted that in the present case samples were drawn at the spot at the time of recovery which is not in consonance with the procedure prescribed by the Rules of 2022.

5. It is further submitted that there is breach of Section 50 of the NDPS Act. My attention is invited to the notice dated 16.01.2023 at page 46 of the paper book which is issued under Section 50 of the NDPS Act. The said notice prima facie appears to be in compliance with the provisions of Section 50 of the NDPS Act. However, the investigating agency proceeded to obtain the signature of Panchas on the said notice. It is seen that only one Pancha has signed the

notice though the Panchanama indicates that the same was drawn in the presence of two Panchas. These are submissions which obviously will be the subject matter of consideration before the trial Court on which I do not propose to express any opinion. Suffice it to observe that what is found in the possession of the applicant is an intermediate quantity and not a commercial quantity. The rigorous of Section 37 of the NDPS Act do not apply. The applicant is in custody since 16.01.2023 for a period of more than eight months. The trial is not likely to conclude soon.

6. Learned APP opposed the application for bail. Learned APP submitted that the applicant is from Rajkot and that some stringent conditions need to be imposed if the applicant is to be enlarged on bail. However, it is submitted by learned counsel for the applicant that the applicant is a permanent resident of Mumbai and that his home town is Rajkot.

7. Be that as it may, I am inclined to enlarge the applicant on bail by imposing stringent conditions. I find

that the investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant can be enlarged on bail. He does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Parag Vitthalbhai Senjaliya in connection with C.R. No.II-33 of 2023 registered with Kashimira Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more solvent sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Kashimira 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 to deposit the passport, if any, before the Investigating Officer.

8. The application is disposed of.

(M. S. KARNIK, J.)