

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

BAIL APPLICATION NO.3170 OF 2022

Mohammed Arif Mohammed Shafi ..Applicant

VS.

The State of Maharashtra ..Respondent

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Adv. Ajay Laxman Bhise for the Applicant.

Mr. S. H. Yadav, APP for the State.

Mr. Suresh Jadhav, PSI, Mumbra Police Station, Thane City
present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 21, 2023

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail by the applicant-
Mohammed Arif Mohammed Shafi in connection with C.R.
No.1120 of 2021 dated 17/11/2021 registered with Mumbra
Police Station, Thane City for the offence punishable under
Sections 8(c), 22(b), 22(c) and 29 of the Narcotic Drugs
and Psychotropic Substances Act, 1985 (hereafter "NDPS
Act", for short).

3. There are in all three accused. The applicant is the

accused No.1. The prosecution case is that the team of the Narcotics wing was on patrolling duty when they found the applicant loitering in a suspicious manner. The applicant was found in possession of 7 grams of Mephedrone which is admittedly a non-commercial quantity.

4. Learned counsel for the applicant submitted that there is non-compliance of Section 42 of the NDPS Act as though the raiding party had prior information that the applicant is carrying narcotics substance, such information is not reduced in writing. To substantiate this contention learned counsel invited my attention to page 36 of the paper book. Learned APP on the other hand submitted that this is a case of chance recovery.

5. Though prima facie I found some substance in the contention of the learned counsel for the applicant, as these are matters for the trial Court to consider, I am not expressing any opinion.

6. In the present case, considering that the applicant is found in possession of non-commercial quantity, the rigors of Section 37 of the NDPS Act are not applicable. The

applicant was arrested on 16/11/2021 and now in custody for more than 1 year and 3 months with no possibility of the trial commencing anytime soon. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant therefore can be released on bail by imposing stringent conditions.

7. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) Applicant- Mohammed Arif Mohammed Shafi shall be released on bail in connection with C.R. No.1120 of 2021 dated 17/11/2021 registered with Mumbra Police Station, Thane City, on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (c) 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.

(d) The applicant shall attend the concerned Police Station once in a month on every Monday of the first week between 11.00 a.m. and 1.00 p.m.

(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 the area of Thane district without the leave of the trial Court till the trial is over.

8. The Bail Application is disposed of.

(M. S. KARNIK, J.)