

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

**BAIL APPLICATION NO. 3107 OF 2022**

PRADNYA  
MAKARAND  
BHOGALE

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PRADNYA MAKARAND  
BHOGALE  
Date: 2023.01.11  
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Wasim Khalil Momin

..Applicant

VS.

The State of Maharashtra

..Respondent

Mr. Ali Bubere i/b. Mr. Rajendra Rathod a/w Mr. Aamir Koradia and Irum Shaikh for the Applicant.

Mr. S. V. Gavand, APP for the State.

Mr. S. R. Raje, PSI, Bhiwandi City Police Station is present.

**CORAM : M. S. KARNIK, J.**

**DATE : JANUARY 11, 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-Wasim Khalil Momin in connection with C.R. No.268 of 2019 dated 13/05/2019 registered with Bhiwandi City Police Station, under Sections 328, 273, 276, 411, 188 read with 34 of the Indian Penal Code and under Sections 18(c), 27(b)(2), 27(d) of Drugs and Cosmetics Act, 1940 and under Sections 3/25, 4/25 and 7/25 of Arms Act and under Sections 77 and

78 of Juvenile Justice act and under Sections 8 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

**3.** The co-accused Sameer Urf Firoz Shaikh had filed Bail Application Stamp No.1945 of 2020 in this Court. By an order dated 18/09/2020, the bail application came to be allowed. The order dated 18/09/2020 reads thus :-

“Heard.

1. Upon receiving a complaint from the residents, on 13.05.2019, house of Naeem Khaleel Momin (one of the accused) was searched suspecting his involvement in ‘drugs’ business. In the course of investigation, on a secret information, a trap was laid near Shan Hotel at Bhiwandi, where accused no.7 was expected to come to sell the drugs. Pursuant thereto, trap was laid and accused no.7 was arrested. Incidentally at the Shan Hotel accused no.8, (applicant herein) was found present. On his personal search 13 packets containing ‘ALKO-1’, Alprazolm, in all containing 0.13 gms. was found on his person and recovered. This drug is notified at serial no.178 of the notification, which prescribes 5 gms. as its ‘small quantity’ as against ‘100 gms’. a commercial quantity. Applicant came to be apprehended on 23.05.2019.

2. Learned Counsel for the Applicant submits the quantity of drugs allegedly recovered from the applicant is less than a small quantity. Submission is the punishment for possessing of drugs in a small quantity in terms of Section 22(a) of the NDPS Act is one year, but since applicant has undergone imprisonment for 15 months, he may be released on bail. This fact has not been disputed by the State.

3. The other offenses registered under the Drugs and Cosmetics Act, 1940 namely Section 27(b) and (d)

read with Section 18(c) are punishable with maximum sentence of three years.

4. Investigation in this case is over. No criminal antecedents as against the applicant are pointed out. In view of the facts aforesaid, the applicant is directed to be released on bail on the following conditions.

**ORDER**

(i) The applicant is directed to be released on bail on executing PR bond for the sum of Rs.50,000/- with one or more sureties in like sum.

(ii) In view of outbreak of Covid – 19 pandemic, applicant is permitted to furnish the cash bail in the event of his arrest.

(iii) Applicant shall report to the Investigating Officer once in a month i.e. 1<sup>st</sup> Monday of each month commencing from October, 2020 till the charge is framed.

(iv) The applicant shall furnish particulars of his permanent residential address and contact details to the Investigating Officer forthwith.

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

5. Application is allowed in the aforesaid terms and disposed of."

4. The role assigned to the applicant is identical with that of the co-accused. The applicant therefore can be granted bail for the same reasons.

5. Hence the following order :-

**ORDER**

(i) Application is allowed.

(ii) The applicant is directed to be released on bail on executing PR bond for the sum of Rs.50,000/- with one or more sureties in like sum.

(iii) The applicant is permitted to furnish cash bail surety in the sum of Rs.50,000/- for a period of 6 weeks in lieu of surety.

(iv) Applicant shall report to the Investigating Officer once in a month i.e. 1<sup>st</sup> Monday of each month commencing from February, 2023 till the charge is framed.

(v) The applicant shall furnish particulars of his permanent residential address and contact details to the Investigating Officer forthwith.

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

**6.** The Bail Application is disposed of.

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