

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

Criminal Bail Application No.888 OF 2023

Nadim Soratiya alias Nadim Batla

Age 34 Yrs, Occ.:Nil

Room No.34, 3rd floor, Lakdawala bldg.,

Hujeria street, Nagpada,

Mumbai-400003.

at present Mumbai Central Jail.

... Applicant/accused.

Vs.

The State of Maharashtra

(through ANC Azad Maidan Unit)

... Respondent.

Mr Mithilesh Mishra, appointed Advocate for the applicant.

Mr. Arfan Sait, APP a/w Mr DJ Haldankar for the respondent-State.

API Amol Gavali and PSI Sagar Ghadge, Anti Narcotic Cell, Crime Branch, Mumbai, are present.

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Coram : R. N. Laddha, J.

Date : 8 May, 2024.

P.C.

Heard Mr Mithilesh Mishra, the learned counsel for the applicant and Mr Arfan Sait, the learned Additional Public Prosecutor appearing for the respondent-State.

2. The applicant in the present case is seeking bail in connection with C.R. No.159 of 2022 (Special Case No.92 of

2023) registered with ANC, Azad Maidan Unit, Mumbai for the offence punishable under Sections 8(c) read with 22(b), 22(c) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985.

3. The applicant faces allegations of being in possession of 90 grams of Mephedrone (M.D.). The primary argument presented by the applicant before the Court is that the charge sheet was not submitted within the specified time frame as mandated by Section 167(2) of the Code of Criminal Procedure, 1973 ('the Code'). The applicant was apprehended on 23 July 2022, and the charge sheet was filed on 11 January 2023, without the accompanying Forensic Science Laboratory (FSL) report confirming that the seized substance was indeed Mephedrone (M.D.), a contraband article. Invoking the provisions of Section 167(2) of the Code, the applicant seeks default bail.

4. Mr Mithilesh Mishra, the learned Counsel for the applicant contends that the charge sheet remains incomplete without the FSL report, and it is not in dispute that the report was not submitted within the stipulated timeframe. Based solely on this aspect, the applicant/accused is entitled for default bail.

5. Mr Arfan Sait, the learned Additional Public Prosecutor, submits that the applicant/accused was found in possession of Mephedrone (M.D.) and was apprehended while fleeing from the spot. Later, the FSL report, confirming the seized material, Mephedrone, was submitted to the trial court on 7 February 2023.

6. Having heard the learned Counsel for the rival parties, and upon perusal of the material on record, it becomes apparent that the charge sheet was submitted within the specified period of time. However, during the initial filing of the charge sheet, the FSL report was not available. Subsequently, the FSL report was filed in the trial Court on 7 February 2023, confirming that the seized material was Mephedrone.

7. In *Manas Krishna T.K. Vs. State, the Police Inspector / Officer in charge and Anr.*¹, the Division Bench of this Court, while considering the issue observed that a police report containing the details prescribed under Section 173(2) Cr.P.C. is a complete police report or a charge sheet or a challan even if it is unaccompanied by a C.A. or FSL report. If such police report is filed within the period stipulated under Section

1 2021 SCC OnLine Bom 2955.

167(2) Cr.P.C. read with Section 36A(4) of the NDPS Act, the accused cannot insist upon a default bail.

8. Given the above, the present bail application stands rejected.

[R. N. Laddha, J.]