

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2076 OF 2024

Shabbir Maulla Shaikh ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Rajendra Bidkar, for the Applicant.

Mr. R. M. Pethe, APP, for the Respondent-State.

CORAM : N. J. JAMADAR, J.

DATE : 9th May, 2024

P.C.:

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

2. The applicant, who is arraigned in C. R. No. 1112 of 2022, registered with Mumbra police station for the offences punishable under Sections 20, 22(c) and 29 of the Narcotics Drugs and psychotropic substances Act, 1985, Sections 3, 4 and 25 of the Arms Act, 1959 and Sections 135 read with 37(1) of the Maharashtra Police Act, 1961 has preferred this application to enlarge him on bail.

3. At the outset, the learned Counsel for the applicant submits that the co-accused, Moiz Lokhandwala, was released on bail by an order dated 28th March, 2023 and another co-accused, Shahrukh Khan, came to be released on 4th April 2024. No contraband article was recovered from the possession of the applicant.

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4. Mr Pethe, the learned APP, fairly submits that the applicant is similarly circumstanced like the co-accused persons, who have released on bail, and principle of parity applies. While releasing co-accused on bail, this Court had observed in paragraph nos. 4 and 5 of the Bail Application No. 42 of 2024, as under:

“4 The learned APP fairly submits that the principle of parity applies.

5. This Court was persuaded to release co-accused on bail on the ground that the prosecution will have to surmount the challenge of non-compliance of Section 52A of the NDPS Act, 1985. If the procedure of sampling vitiates the search, the Court may be justified in drawing an inference that the accused may not be guilty of the offence under the NDPS Act, 1985. Therefore, the interdict contained in Section 37(1)(b)(ii) may not operate. The learned Counsel for the applicant submits that the applicant was prosecuted in NDPS Special Case No. 89 of 2017 for the offences punishable under Sections 22(c) and 29 of the NDPS Act, 1985. However, by an order dated 18th April, 2022 the applicant came to be acquitted.”

5. The Court is not informed that the applicant has antecedents.

6. In these circumstances, I am inclined to exercise discretion in favour of the applicant.

7. Hence the following order:

Order

- 1] The application stands allowed.
- 2] The applicant Shabbir Maulla Shaikh be released on bail in C. R. No. 1112 of 2022 registered with Mumbra police station for the offences punishable under Sections 20, 22(c) and 29 of the Narcotics Drugs and psychotropic substances Act, 1985, Sections 3, 4 and 25 of the Arms Act, 1959 and Sections 135 read with 37(1) of the Maharashtra Police Act, 1961, on furnishing a P.R. Bond of Rs. 30, 000/- with one or more sureties in the like amount to the satisfaction of the learned trial Court.
- 3] The applicant shall mark his presence at Mumbra Police Station on the first Monday of every month between 11.00 am to 1.00 pm for a period of three years or till conclusion of the trial, whichever is earlier.
- 5] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] The applicant shall not indulge in the identical activity for which he has been arraigned in this case.

9] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

10] Application stands disposed of.

(N. J. JAMADAR, J.)