

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.128 OF 2024

Ravish Nadirali Mendrani ... Applicant

V/s.

Union Territories of Daman and Diu ... Respondents
and Anr.

Mr. Sanjay Dubbey with Pooja Bhatt, for the applicant.

Mr. Dikshe Ramnani h/f Mr. Hiten Venegavkar, Spl. PP, for the UOI.

Mr. Sameer Mangaonkar, APP, for the Respondent/State.

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CORAM : ANIL S. KILOR, J.

DATE : 4TH SEPTEMBER, 2024.

PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.66 of 2023, registered with Police Station, Nani Daman, Dist: Daman for the offences punishable under Sections 21(c) and 22(b) of Narcotic Drugs and Psychotropic Substances Act (in short, 'NDPS Act').
3. The commercial quantity of the contraband was recovered from the applicant i.e. 93 grams of mephedrone drugs. While seeking bail, the learned counsel for the applicant argues that there was non

compliance of section 50 of the NDPS Act for the reason that it is written in the report that while leaving for the spot, the kit was carried by the police squad. However, the quantity was determined by using weighting machine brought from nearby grocery shop and not by the weighting machine carried with kit. It is submitted that the samples were not drawn in presence of the Magistrate at the time of search and therefore, there is no compliance of section 52(a).

4. I do not find any substance of the said argument for the reason that samples were drawn and the seizure was made at the time of search. Moreover, the intimation was given in writing to the applicant who waived his right of being searched by another gazetted officer or the Magistrate, in writing.

5. Considering the material available with the charge-sheet, I am of the opinion that *prima facie* there is a compliance of section 52(a).

6. As far as the submission of learned counsel for the applicant that the applicant is entitled for grant of bail on the ground of parity as 3 other co-accused have been released on bail, I do not find favour with the said argument for the reason that the contraband was recovered from the applicant whereas, the other co-accused were not present at the time of search and seizure.

7. It is further argued that there is no mention that who has carried out the search during the seizure. The said argument has not merit as names of the officers and team is mentioned in the report.

8. In the circumstances, since there is no ground to believe that the applicant is not involved in the alleged offence, this is not a fit case for grant of bail.

(ANIL S. KILOR, J)