

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

BAIL APPLICATION NO. 1782 OF 2024

Aslam Jalil Khan	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Dilip Mishra a/w Ayaz Khan i/by Zehra Charania and Ms. Mallika Sharma for the Applicant.

Mr. Babu V. Holambi-Patil, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 12th JULY 2024**

P.C. :

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

2. At the outset, the learned counsel for the applicant informs this Court that in the present case there are two accused persons and the co-accused was granted bail by this Court by order dated 26th June 2024 passed in Bail Application No. 1589 of 2024.

3. In the said order, this Court had accepted the contentions raised on behalf of the co-accused by observing as follows :

“6. This Court is of the opinion that the contention raised on behalf of the applicant with regard to the colour of the envelopes as recorded in the inventory panchnama and compared with the letter dated 5th October 2023 sent by the Police Sub-Inspector of the Police Station to the Police Inspector (Store Room), does make out a prima facie case in

favour of the applicant. A perusal of the inventory panchnama shows that the samples were collected before the Magistrate and placed in two envelopes labelled 'क-१' and 'क-२', specifically recording that the envelopes were of khaki colour, but in the aforesaid letter dated 5th October 2023, alongwith which the samples were forwarded to the Police Inspector (Store Room), it is recorded that the samples were sent in two envelopes labelled as 'क-१' and 'क-२', which were green in colour. This, prima facie, appears to be a glaring discrepancy that goes to the root of the matter. In a similar situation, this Court in the case of Zadi Elayee Sande & Anr. v/s. The State of Maharashtra (Order dated 4th October 2022 passed in Bail Application No. 2796 of 2021) held in favour of the applicant and granted bail on the ground that this was an inconsistency which should inure to the benefit of the applicant/accused.

7. Apart from this, in the present case, even as per the prosecution, at the time of the incident, the applicant was found in possession of 15 grams of mephedrone, which is admittedly an intermediate quantity. The applicant does not have any criminal antecedents and he has remained behind bars since 30th July 2023. Hence, this Court is inclined to allow the present application."

4. The prosecution case against the present applicant is the same as against the co-accused person and hence, it is submitted by the learned counsel that for the very same reasons, this Court may consider enlarging the present applicant on bail. He has remained behind bars since 30th July 2023.

5. The learned APP is unable to dispute the fact that the role of the present applicant is the same as the co-accused person.

6. In that light, considering the reasons stated in the above quoted paragraphs 6 and 7 of the order dated 26th June 2024

passed in Bail Application No. 1589 of 2024, the instant bail application is also allowed in the following terms :

- (a) The applicant shall be released on bail in connection with FIR No.667 of 2023 dated 30th July 2023 registered with Shivaji Nagar Police Station, Mumbai, on furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount.
- (b) The applicant shall report to the Shivaji Nagar Police Station, Mumbai, on first Monday of each month between 10:00 a.m. and 12:00 noon, during the pendency of the trial. The applicant shall attend the trial Court on each and every date, unless specifically exempted by the trial Court.
- (c) The applicant shall not indulge in any activity similar to the one on the basis of which the subject FIR has been registered against him.
- (d) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
- (e) The applicant, upon being released on bail, shall place on record of the trial Court the details of his

Contact Number and residential address with updates in case of any change.

7. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8. The application is disposed of.

MANISH PITALE, J.