

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

**BAIL APPLICATION NO. 2359 OF 2024**

Mujib Rehman Shaful Shaikh @ Mujibur

...Applicant

**Versus**

The State of Maharashtra

...Respondent

\*\*\*

- Mr. Ranjeet H. Patil a/w Ms. Kalpana V. Chate, Mr. Sumitkumar Nimbalkar, Mr. Govind Mundhe and Ms. Neha Rathod, for Applicant.
- Mr. Bapu V. Holambe Patil, APP for Respondent.
- Mr. Sopan B. Wadkar, PSI, Sakinaka Police Station, present.

\*\*\*

**CORAM : MANISH PITALE, J.**

**DATE : 11<sup>th</sup> DECEMBER, 2024.**

**P. C. :**

1. Heard learned counsel for the applicant and learned APP for the respondent-State
  
2. The applicant is seeking bail, as he was arrested on 27<sup>th</sup> June, 2023, in connection with First Information Report No.0624 of 2023, dated 17<sup>th</sup> June, 2023, registered at Police Station Sakinaka, Brihanmumbai, for offences under Section 8(c) and 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985. Upon filing of charge-sheet, offences under Sections 27(a) and 29 of the NDPS Act, have also been added.
  
3. In the present case, on a chance recovery on 16<sup>th</sup> June, 2023, 230 gms of mephedrone (MD) was found in possession of co-accused person, who is the only accused person named in the FIR. Upon further investigation being undertaken, the names of other accused surfaced, including that of the

SHRIKANT  
SHRINIVAS  
MALANI

Digitally signed by  
SHRIKANT  
SHRINIVAS  
MALANI  
Date: 2024.12.12  
11:21:39 +0530

applicant before this Court. The record shows that after the applicant was arrested and the search of his house was undertaken on 30<sup>th</sup> June, 2023, 15 gms of MD was recovered from his house.

4. The learned counsel for the applicant submits that, other than the statement of the co-accused person, there is hardly any material to link the applicant with the aforesaid offences. He submitted that the applicant does not have any criminal antecedents. It is further brought to the notice of this Court that there is a discrepancy in the procedure followed in the present case as the inventory *panchnama* dated 10<sup>th</sup> August, 2023, would show that it has glaring discrepancies, insofar as description of the packets containing the contraband is concerned. It is submitted that the aforesaid aspect goes to the root of the matter and therefore, this Court may consider allowing the bail application.

5. On the other hand, the learned APP submitted that the discrepancy highlighted on behalf of the applicant can be said to be a minor discrepancy and a matter for trial. It was submitted that the investigation has revealed information in the form of transfer of amounts through mobile app by co-accused in favour of the applicant, thereby showing that there were financial transactions between them, indicating the involvement of the applicant alongwith co-accused persons in the present case.

6. Having considered the rival submission in the backdrop of the material on record, this Court is inclined to allow the application. The applicant was not named in the FIR and it was on the statement of the co-accused person that he was arraigned as an accused and proceeded against. The recovery of 15 gms of MD from the house of the applicant was after he was already arrested on 26<sup>th</sup> June, 2023. No contraband was recovered from the person of the applicant and he was not even present at the spot when the named accused person was found in possession of 230 gms of the MD, as a matter of chance recovery.

7. As regards the financial transactions with the co-accused, the material on record shows certain screen shots of amounts being allegedly received by co-accused person, but, unless there is material to show at least *prima facie* that such transfer of amounts could be co-related to supply of contraband, reliance upon the said material to implicate the applicant may not be appropriate.

8. Apart from this, the discrepancy highlighted in the context of inventory *panchnama* dated 10<sup>th</sup> August, 2023, is significant. The documents on record show that when the contraband was recovered and stored in *khaki* colour packets, all four packets concerning recovery of various quantities of contraband were labeled अ, but, when those khaki packets were opened

before the Magistrate, at the time when the inventory *panchnama* was executed, labels were shown as अ, ब, क and अ. This does create doubt about the claim that the contraband actually recovered by the Investigating Officer was the one that was placed before the Magistrate when the inventory *panchnama* was executed.

9. In such cases, the purity of the process of collection of contraband, its storage and drawing of samples goes to the root of the matter and if there is material to indicate doubt about the purity of such process, it does inure to the benefit of the accused.

10. Since the applicant does not have any criminal antecedents and he has already suffered incarceration for a period of 1 and ½ years, this Court is inclined to allow the bail application.

11. Accordingly, the application is allowed in the following terms :

(A) The applicant shall be released on bail in connection with FIR No.0624 of 2023, dated 17<sup>th</sup> June, 2023, registered at Police Station Sakinaka, Brihanmumbai, on furnishing PR bond of ₹ 50,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.

(B) The applicant shall remain present before the Police Station Sakinaka, Brihanmumbai on the First Monday of

every month between 10.00 a.m. to 12.00 noon, during the pendency of the trial.

- (C) The applicant shall attend the proceedings before the Trial Court on every date, except when exempted, for reasons to be recorded in writing.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.
- (E) The applicant shall upon being released immediately inform the Investigating Officer of his Contact number and residential address and update the same in case of any change.

12. 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.

13. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application is disposed of.

**(MANISH PITALE, J.)**