

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

BAIL APPLICATION NO. 4435 OF 2024

Azim @ Ajim Modh. Khan ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Shreerat Kamath, a/w Puja Yadav, for the Applicant.
Mr. H. J. Dedhia, APP for the State.

**CORAM: N. J. JAMADAR, J.
DATED: 25th NOVEMBER, 2024**

PC:-

1. Heard the learned Counsel for the applicant.
2. This is a second application for bail. The first application was rejected by this Court by ascribing reasons.
3. The learned Counsel for the applicant invites the attention of the Court to an order passed by the Supreme Court in the case of co-accused Mehboob Aftab Khan (Special Leave to Appeal (Cri) No.10433/2024.)
4. I have perused the material on record. The role attributed to the said accused is materially distinct. The applicant was found in possession of the contraband substance and was apprehended alongwith the co-accused Mohd. Basit Farooque Ansari (A1). While rejecting the first

bail application, this Court had already observed that the allegations against the applicant are graver than those against Mehboob Khan (A3). It was observed as under :

“8. The last submission of the learned APP deserves consideration first. Evidently, Mehboob Khan (A3) came to be apprehended pursuant to the disclosure made by the applicant and Mohd. Basit Ansari (A1). The applicant was allegedly found travelling in the taxi along with the contraband substance. There were as many as 22 boxes, each containing 144 bottles of Phensirest. Pursuant to the discovery made by the applicant, 50 boxes containing 144 bottles each of Phenirest, were recovered. The seizure is further substantiated by the Goods Consignment Notes (pages 37 to 40) which indicate that, the applicant was the consignee. In the face of such material, I find substance in the submission of Ms. Ganapathy that the allegations against the applicant are graver than those against Mehboob Khan (A3), whose application came to be rejected by this Court.

.....

13. In conclusion, in the backdrop of the material which makes out a very strong prima facie of possession of huge quantity of the contraband substance, and apparently, the applicant had no licence to possess such huge quantity of contraband substance, I am impelled to hold that there is no substantial probable cause to believe that the applicant may not be guilty of the offences for which he has been arraigned. The interdict contained in Section 37 of the NDPS Act, 1985 applies with full force and the rigor. I am, therefore, not inclined to exercise discretion in favour of the applicant.”

5. Thus, having already considered the matter on merits, the Court does not find any justifiable reason to entertain the prayer for bail afresh.

6. The Application stands rejected.

[N. J. JAMADAR, J.]