

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

Anticipatory Bail Application No. 2386 of 2024

Aaquib Yaqub Khan
Age 27 years, R/o. 133,
Abubakkar Chawl, Andheri
Market, Behind Fish Market,
Andheri (W), Mumbai – 400 058.

...Applicant

Vs.

The State of Maharashtra
(C.R. No.82 of 2024 of Oshiwara
Police Station)

...Respondent

Ms. Zehra Charania i/b. Mr. Ayaz Khan, for the Applicant.
Mr. Amit A. Palkar, APP for the Respondent – State.
PSI Deepak H. Barve, Oshiwara Police Station, Mumbai is present.

Coram: R. N. Laddha, J.
Date: 30 August 2024

P.C.

1. The applicant apprehends arrest in CR No.82 of 2024, registered at Oshiwara Police Station, Mumbai, for the offences punishable under Sections 8(c) read with 21(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. By the present application, the applicant seeks pre-arrest bail.

2. According to the prosecution, during a routine patrol, the

complainant, an officer from Oshiwara Police Station, apprehended the co-accused, who were behaving suspiciously while carrying plastic bags. Upon searching them, three grams of Mephedrone (MD) was found. When questioned, the co-accused revealed Sumit's involvement, who in turn implicated the applicant. The prosecution claims that the co-accused had purchased the contraband from the applicant, establishing a link between the applicant and the seized drugs.

3. I have heard Ms Zehra Charania, the learned Counsel for the applicant, and Mr Amit Palkar, the learned Additional Public Prosecutor for the respondent/ State.

4. Ms Zehra Charania, the learned Counsel representing the applicant, submits that the applicant has been falsely implicated in the present crime. The applicant's name is not mentioned in the First Information Report (FIR), and no substantial reasons have been provided to explain his inclusion in the remand report as a wanted accused. The learned Counsel points out that the co-accused, found with a non-commercial quantity of contraband, has already been enlarged on bail. Moreover, the apprehended co-accused implicated Sumit, not the applicant. Given that the banned items have been recovered, the learned Counsel contends that the applicant's custodial interrogation is unnecessary.

5. On the other hand, Mr Amit Palkar, the learned Additional Public Prosecutor, representing the respondent/ State, submits that

during the investigation, the co-accused implicated Sumit, another co-accused, who in turn, revealed the applicant's involvement. The applicant is the supplier of the seized items and has criminal antecedents. The learned APP emphasises the seriousness of the offence and the need for the applicant's custody to unravel the entire transaction chain. He further contends that if the applicant is granted pre-arrest bail, he may tamper with the prosecution evidence/witnesses.

6. Upon perusing the record, it *prima facie* appears that there is no material, including Call Detail Records or payment records, to suggest that the applicant was involved in supplying the prohibited items. The only link between the applicant and the crime is the co-accused's statement, which lacks specific details. The contraband has already been seized, and the co-accused, who was found in possession of the banned articles, has already been enlarged on bail. Therefore, without delving into the merits of the case, this Court finds that the applicant is entitled to the relief of anticipatory bail. To address concerns about evidence tampering or witness influence, appropriate conditions can be imposed. Hence the following order:

ORDER

- (i) In the event of the applicant's arrest in CR No.82 of 2024, registered at Oshiwara Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not indulge in any activity that would tamper with the evidence or influence any witnesses.

7. The application stands disposed of accordingly.

R. N. Laddha, J.