

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3054 OF 2024**

Farzana Mard Shaikh Hakim	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Ranjeet H. Patil, Ms. Sampada S. Patil and Mr. Soham Powar, i/b. Mr. Nikhil G. Hire for applicant.

Mr. Mayur S. Sonavane, APP for respondent-State.

**CORAM : MANISH PITALE, J.
DATE : 26th NOVEMBER, 2024**

P.C. :

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

2. The applicant has approached this Court apprehending arrest in connection with FIR No.0217 of 2024 dated 19.09.2024, registered at Pawarwadi Police Station, District Nashik Rural, for offences under Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

3. Since offences in the present case are registered under the NDPS Act, the learned APP has taken strong objection to this Court entertaining the present application. It is submitted that since the stringent twin test contemplated under Section 37 of the NDPS Act, is required to be satisfied by the accused, prayer for anticipatory bail application ought not to be entertained by this Court, particularly in the facts and circumstances of the present case.

4. The learned APP relies upon order of the Supreme Court passed in the case of *State by the Inspector of Police vs. B. Ramu* (order dated 12.02.2024

passed in Criminal Appeal arising out of Special Leave Petition (Crl.) No.8137 of 2022) and other such orders.

5. On the other hand, the learned counsel for the applicant relies upon certain orders passed by this Court, whereby anticipatory bail was granted to the applicants (accused), despite the fact that offences under the NDPS Act were registered and the cases concerned commercial quantity of contraband.

6. Although there cannot be any doubt about the fact that prayer for grant of anticipatory bail cannot be casually considered by the Court when offences under the NDPS Act are registered against the accused, despite the stringent requirement of the test contemplated under Section 37 of the NDPS Act, whether to exercise power to grant anticipatory bail to an accused, would depend upon the facts and circumstances of each case. The Court would be within its powers to examine the contentions of the applicant, to determine as to whether the applicant has indeed made out a case, satisfying the aforesaid twin test contemplated under Section 37 of the NDPS Act, while considering the prayer for grant of anticipatory bail.

7. In the present case, the main allegation against the applicant is that the named accused person i.e. her own son, stated that the contraband was supplied to him by her, at the time when the named accused person was apprehended for being in possession of 54 grams of mephedrone (MD), which is commercial quantity.

8. The allegation in the present case is indeed serious. But, as of now, other than the statement of the co-accused person, there does not appear to be any material to link the applicant with the offences in question. It is to be noted that the applicant is not named in the FIR as an accused person, although it is recorded in the statement of the informant that the named accused person stated that the aforesaid commercial quantity of MD was

supplied by the applicant i.e. the mother of the named accused person. This Court had specifically put a query to the learned APP as to whether the applicant has any criminal antecedents. Upon verification, the learned APP makes a statement that the applicant does not have any criminal antecedent. It is to be noted that the applicant is a woman and she is ready to co-operate with the investigation.

9. In such circumstances, this Court is inclined to keep the present application pending and to grant interim relief to the applicant, subject to specific conditions being imposed.

10. In view of the above, there shall be interim order in following terms:

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No.0217 of 2024 dated 19.09.2024, registered at Pawarwadi Police Station, District Nashik Rural, she shall be released on bail on furnishing PR Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the trial court.
- (b) The applicant shall appear before the investigating officer on 28.11.2024 and 29.11.2024 between 10:00 a.m. and 12:00 noon and thereafter as and when required by the investigating officer.
- (c) The applicant shall not influence the informant, witness or any person concerned with the case and shall not tamper with the evidence. She shall co-operate with the investigation.

11. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

12. List for further consideration on 07.01.2025, to be included in the supplementary list.

(MANISH PITALE, J)