



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.818 OF 2024

(Pathan Imrankhan Aslamkhan Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. T. Mooman, Advocate for the applicant.
Mr. S.A. Ashirgade, Addl.PP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- DECEMBER 18, 2024

Apprehending the arrest at the hands of police in connection with Crime No.532/2024 registered with Police Station Barshitakli, District Akola for the offences punishable under Sections 8(c), 22(c), 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the applicant approached to this Court for grant of pre-arrest bail.

2. The accusation against the present applicant/accused is on the basis of report lodged by the police inspector Shankar Shelke, LCB Akola on 24/10/2024, on an allegation that when he along with other police staff on the patrolling duty within the limits of Barshitakli police station at about 6:00 hours, he received a secret information that psychotropic substance Mephedrine (MD) was manufactured in the premises of defunct ginning mill of Mohammed Shafi situated at Barshitakli. The information was said that the drug was manufactured. On an information the raid was conducted. During the raid, the huge stock weighing 5548 grams

worth of Rs.1,38,70,000/- was found.

3. Learned Counsel for the applicant submitted that the contraband article which was seized i.e. Ephedrine. Ephedrine is not included in the Narcotic drugs, but it can be a controlled substance. Therefore, the rigour under Section 37 will not attract. Moreover, he submitted that as far as the present applicant is concerned, who was only working as a Broker and he has only shown the place to the purchasers except that there is no other role attributed to the applicant. As far as the custodial interrogation of the present applicant is concerned, which is not required. In view of that, he can be protected by granting anticipatory bail.

4. Learned APP strongly opposed the application and submitted that not only he was the Broker, but during investigation it revealed that he was the person, who has taken the custody or delivery of the said goods from the other co-accused. There are CDR reports, which shows the connection between the present applicant and the other co-accused. The statements of the witnesses as well as the Hotel Manager, which was recorded during the investigation, show that present applicant has booked the room in the Hotel and the other co-accused stayed in the said Hotel. The Hotel Manager has also collected his identity card in the nature of Aadhar Card and other documents, which shows that it was the present applicant, who has booked the said room and provided to other co-

accused. During investigation it further revealed that he has given finance to said activities. Considering all these aspects, the application deserves to be rejected in view of rigour under Section 37 of the NDPS act.

5. I have heard learned Counsel for both the parties and perused the investigation papers from which it reveals that during the raid the Investigating Officer has seized the articles, which was in the nature of Ephedrine. The samples taken from the said articles were forwarded to the chemical analysis, which was in the nature of 1. white coloured crystalline powder in a stapled polythene put in an envelope, 2. brown coloured crystalline powder, 3. white coloured crystalline powder, 4. colourless liquid in plastic jar, 5. colourless liquid, 6. white coloured crystalline powder and 7. plain yellowish coloured liquid.

6. During the analysis, Exhibits 1 and 2 i.e. white coloured crystalline powder and brown coloured crystalline powder was analyzed as Mephedrine and the said CA report is on the record. During investigation, the statement of the witnesses are recorded including the statement of one Nisar Niyazi Mukhtar Niyazi from which it reveals that the said goods are received by the present applicant and delivery was obtained by the present applicant. There are CDR reports also, which shows there was constant communication between present applicant and other co-accused. Present applicant also stayed in one hotel and his identity established on the basis of the

documents, which he has supplied while obtaining the room.

7. While considering the anticipatory bail, the nature of the allegation plays an important role. While considering the recitals of the FIR, it reveals that huge contraband articles in the nature of Ephedrine was used, which finally analysed as Mephedrine, which is a Narcotic Drug. Therefore, rigour under Section 37 of the NDPS Act would apply and in view of that, the application of the present applicant for grant of anticipatory bail deserves to be rejected.

8. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*