

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1249 OF 2024

Mustafa Fakir Mohammad Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

.....

- Mr. Tohid Shaikh, Advocate i/by Ms. Anjali Patil for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for Respondent.

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 18, 2025

P.C.:

- 1.** Mentioned out of turn at the time of rising of the Court.
- 2.** Heard Mr. Shaikh, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent.
- 3.** Applicant is arraigned in an offence under provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS Act**') for being in possession of 15 grams of intermediate quantity of alleged contraband namely Mephedrone (for short '**MD**'). Mr. Shaikh would inform the Court that Applicant has no antecedents. He is married and has three children and working as a labourer.
- 4.** Mr. Shaikh would draw attention of Court to the Seizure Panchnama appended at page No.49 of the Application and would submit that at the time of apprehension of Applicant alongwith the alleged contraband what is stated in the Seizure Panchnama is 15

grams of alleged contraband only. He would submit that prosecution has improved its case in the substantive statement namely Nivedan Panchnama recorded subsequently on the same day when prosecution has shown recovery of 50 bottles of Codeine Phosphate syrup from an open ground at the behest of Applicant. He would submit that Seizure Panchnama itself is therefore inconclusive and doubtful in the aforesaid facts.

5. Considering the long incarceration of Applicant for 1 year and 10 months and the fact that he was initially apprehended alongwith the alleged contraband of intermediate quantity, the learned Prosecutor is directed to take appropriate instructions and apprise the Court accordingly as this Court shall consider the case for deciding the case of Applicant in accordance with law.

6. Mr. Shaikh has also pleaded the ground of non-compliance of Section 50 of the NDPS Act which shall also be replied to by the prosecution.

7. Stand over to **08th April, 2025**. To be placed on the 'Supplementary Board'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2025.03.18
19:20:46
+0530