

HARSHADA H. SAWANT  
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.1559 OF 2024**

Taufiq Gulam Mohammad

.. Applicant

**Versus**

State of Maharashtra

.. Respondent

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- Mr. Taraq Sayed a/w. Mr. Anish Pereira, Ms. Ashwini Achari and Ms. Alisha Parekh, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent – State of Maharashtra.
- Mr. Vishal Raut, Police Sub-Inspector, Malvani Police Station.

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**CORAM : MILIND N. JADHAV, J.**

**DATE : JANUARY 28, 2025**

**P.C.:**

**1.** Heard Mr. Sayed, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent – the State of Maharashtra.

**2.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking Bail in connection with C.R. No.1369 of 2023 registered with Malvani Police Station for offences punishable under Section 8(c) read with Sections 22(c) and 29 of the Narcotics and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’).

**3.** Present case before is a case of chance recovery. Applicant is apprehended with 200 grams of Mephedrone (for short ‘MD’) which is alleged to be recovered from his conscious possession. At the outset,

Mr. Sayed draws my attention to page No.56 which is the communication of the grounds for arrest to Applicant. It is dated 18.10.2023 and all that it states that permission of Applicant has been taken for his frisking and search. Perusal of this letter clearly shows all that is stated in the letter is that Applicant has been informed that if he desires to be searched he will be taken to the nearest Magistrate or designated Gazetted Officer and nothing more. There is not a singular word more than what is stated hereinabove. The least that the prosecution would have informed the Applicant was the provisions and Sections under which he would be arrested and what are his rights and most importantly his consent ought to have been recorded.

**4.** In so far as the signatures appended to the said letter are concerned, it is seen that below the signature of the Police Inspector the said letter is signed by two witnesses – Safar Ali and Abid. On the left hand side of the names of pancha witnesses is a left hand thumb impression and an initial which is not decipherable. It does not convey that Applicant has acknowledged this particular form either.

**5.** That apart, another dichotomy is clearly noticed when First Information Report (for short '**FIR**') is seen and juxtaposed with the letter of intimation which are both appended to the Application. The FIR is at page No.36 whereas the letter of intimation is at page No.55. The FIR is registered on 19.10.2023 at 03:47 hours whereas letter of

intimation of having registered the FIR is ante-dated and is of the date 18.10.2023 and in the subject column of the said letter, it clearly gives reference of the FIR which has been registered subsequently.

**6.** *Prima facie*, the above two grounds clearly show complete lapse in applying the specific provisions of NDPS Act in the investigation, search and seizure and non-compliance of Sections 42 and 50 which are the *sine qua non* in such cases. In view of the above *prima facie* observations and findings, Applicant is entitled to be enlarged on bail subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter or as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of

this order;

- (iv) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (v) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (vi) Any infraction of the above conditions shall entail the prosecution to seek cancellation of this order.

**7.** The aforesaid observations are *prima facie* on the basis of record of the case which has been argued before me and is an expression of opinion by this Court only for the purpose of enlargement of Applicant on bail and shall not influence the trial in the present case.

**8.** Bail Application stands allowed and disposed.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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SAWANT

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by HARSHADA  
HANUMANT  
SAWANT  
Date: 2025.01.28  
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