

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2239 OF 2024

Nadeem Salim Sortiya @Nadeem Batla	.. Applicant
Versus	
State of Maharashtra	.. Respondent

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- Mr. Kamlesh Satre, Advocate for Applicant.
 - Mr. Balraj B. Kulkarni, APP for State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 23, 2025

P. C.:

1. Heard Mr. Satre, learned Advocate for Applicant and Mr. . Kulkarni, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 159 of 2022 registered with ANC, Azad Maidan Unit for the offence punishable under Sections 8(c), 22(b), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "**NDPS Act**").

3. On 3rd April, 2025 after hearing learned Advocates at the bar following order was passed:-

"1. Heard Mr. Satre, learned Advocate for Applicant and Mr. Kulkarni, learned APP for Respondent – State.

*2. In the present case, Applicant is incarcerated and arrested in an offence under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS Act**') and*

incarcerated for the past more than 3 years. Though the learned Advocate Mr. Satre would submit that Applicant was arrested and apprehended alongwith commercial quantity of the alleged contraband namely 90 grams of Mephedrone, there is a complete non-compliance of the statutory provisions under Section 50 of the NDPS Act in as much as the appraisal letter given to Applicant does not bear his endorsement at all.

3. In that view of the matter, he would submit that considering the said breach as also long incarceration pending trial, Applicant be released on bail.

4. Mr. Kulkarni, learned APP is directed to take appropriate instructions from the concerned Investigating Officer on the precise role of the Applicant in the crime and accordingly apprise the Court on the next adjourned date on the veracity of the aforementioned submissions made by Mr. Satre.

5. Considering the long incarceration of the Applicant, present Application shall be heard and decided on the next adjourned date which shall be noted by the prosecution.

*6. List the Bail Application on Board on **23rd April, 2025**. To be placed on the '**Supplementary Board**'."*

4. Today, on getting instructions learned Prosecutor Mr. Kulkarni in his usual fairness draws my attention to page Nos. 22, 23 and 24 out of which document appended at page No.24 of the Application pertain to the appraisal letter given to the Applicant before me. *Prima facie* it is seen that all three appraisal letters issued under Section 50 of the NDPS Act do not bear endorsement of the Accused persons including that of the Applicant on his appraisal letter on page No.24. This is *prima facie* transgression of the statutory provisions as contemplated in Section 50 of the NDPS Act.

5. In this regard attention is drawn to the decision of the Supreme Court in the case of ***Ranjan Kumar Chadha Vs. State of***

Himachal Pradesh¹ wherein Supreme Court has laid down guidelines for compliance of provisions of Section 50 of the NDPS Act and taking endorsement of the Accused in his own handwriting is one of the guidelines laid down therein which has been violated in the present case. This Court in the case of ***Altamash Yusuf Shaikh Vs. The State of Maharashtra***²; ***Nasrin Basir Shaikh Vs. The State of Maharashtra***³; and ***Sharib Iqbal Ansari Vs. State of Maharashtra***⁴ granted bail to the Accused persons for non-compliance of provisions of Section 50 of the NDPS Act.

6. That apart long incarceration of the Applicant pending trial is another ground for enlarging Applicant on bail.

7. Needless to state that complicity of the Applicant in the present crime shall be determined the prosecution at the time of trial.

8. In view of the above *prima facie* observations qua the facts of the present case and the decisions referred to hereinabove, Bail Application is allowed 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.25,000/- with one or

1 2023 SCC OnLine SC 1262.

2 Criminal BA No.2203 of 2024 decided on 17.03.2025.

3 Criminal BA No.4150 of 2024 decided on 05.03.2025.

4 Bail Application No.363 of 2025 decided on 18.02.2025.

two sureties in the like amount;

(ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 01.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(v) 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;

(vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application is allowed and disposed.