

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3462 OF 2024

Imran Yusuf Qureshi

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Rajkumar Awasthi a/w Mr. Arman Parve, Ms. Bushra Sayed, Mr. Manish Tomar & Ms. Fahad F. Chougale for Applicant
- Mr. Hitendra J. Dedhia, APP for State
- R.V. Londhe, API, ANC Ghatkopar, Crime Branch, Mumbai

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 25, 2025

P. C.:

1. Heard Mr. Awasthi, learned Advocate for Applicant and Mr. Dedhia, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with Crime No. 170/2022 registered with ANC, Ghatkopar Unit, Mumbai for the offences punishable under Sections 8(c) and 20(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "**NDPS Act**").

3. Mr. Awasthi has pointed an apparent dichotomy in the memorandum panchnama appended at page No. 21 when juxtaposed with the inventory panchnama at page No.66 and the entry in the

muddemal Register at page No.65 of the Application. On 25.09.2022 when the alleged contraband was seized from the Applicant, its weight has been shown to be 3.200 kgs as can be seen from page No. 23 of the Application. The inventory panchnama is appended at page No. 66 of the Application where the weight of the contraband is shown as 3.253 Kgs. That apart when the samples are drawn, it is seen that balance samples after drawing of CA sample and reserved sample, the weight of the alleged contraband is shown as 3.202 kgs, 25 grams and 25 grams. This exercise is done on 04.10.2022, but when on 06.10.2022 inventory samples are sent to the Malkhana after deposit the contraband is stated to weigh 3.200 kgs. only.

4. From the above, there appears clear transgression of the procedural law required to be followed under Section 52 of the NDPS Act in the present case. There is an apparent increase of 52 grams of the contraband within 2 days between 04.10.2022 and 06.10.2022 which is unexplained. This vitiates the seizure and inventory procedure, which are required to be strictly followed. Complicity of Applicant can be proved in trial. Applicant is therefore entitled to be released on bail.

5. In view of the above, present Application is allowed in terms of prayer clause (a) 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 two sureties in the like amount;
- (ii) Applicant shall report to the concerned Investigating Officer on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter 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 leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his passport, if any, within two weeks after being released on bail with the Trial Court;
- (v) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vi) 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;

(vii) Any infraction of the above conditions shall entail cancellation of this order.

6. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on the merits of the case.

7. Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
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2025.02.26
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