

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3606 OF 2024

Aslam Abdul Qadir Sama

.. Applicant

Versus

State Of Maharashtra

.. Respondent

-
- Ms. Lochan P. Chandka, Advocate for Applicant.
 - Mr. Rishikesh M. Pethe, APP for State.
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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.** Applicant is indicted in an offence under the provisions of NDPS Act on being apprehended in possession of 65.78 grams of Mephedrone. Applicant is incarcerated for the past 1 year and 7 months.
- 3.** Ms. Chandka, learned Advocate for Applicant would submit that there is non-compliance of the provisions of Section 42, 50 and 52 A of the NDPS Act.
- 3.1.** Insofar as non compliance of Section 42 is concerned, she would submit that the information intelligence input received pertained to “some person” selling some drug but when the Applicant was apprehended and appraised of his right under Section 50 of the

NDPS Act, the letter given to Applicant precisely stated about the alleged contraband being 'Mephedrone' sold by him. She would submit that this dichotomy is *prima facie* noticed as it would have been known to the prosecution only after the seizure of the alleged contraband and not before giving him the appraisal form.

3.2. Next she would submit that there is transgression of Section 52A in as much as the statutory Magistrate Certificate is not issued in Form 5 as contemplated under Rules 8 and 18 (1) of the Narcotic Drugs And Psychotropic Substances (Seizure, Storage, Sampling And Disposal) Rules, 2022.

4. Learned APP shall take appropriate instructions on the aforesaid submissions made by the learned Advocate for Applicant and ascertain from the chargesheet which has been filed and apprise the Court about the same on the next adjourned date.

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

6. Stand over to **3rd April, 2025**. To be listed on the 'Supplementary Board'.

[MILIND N. JADHAV, J.]