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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 3622 OF 2024

Noor Mohammed Shaikh

.. Applicant

Versus

Union of India and Anr.

.. Respondents

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- Mr. Anish Pereira a/w. Mr. Taraq Sayed and Ms. Ashwini Achari, Advocates for Applicant.
- Mr. Shreeram Shirsat, Special PP a/w. Ms. Karishma Rajesh and Mr. Shekhar Mane, Advocates for Respondent No.1 – Union of India.
- Ms. Megha S. Bajoria, APP for Respondent No.2 – State.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2025.

P.C.:

1. Heard Mr. Pereira, learned Advocate for Applicant; Mr. Shirsat, learned Special PP for Respondent No.1 – Union of India and Ms. Bajoria, learned APP for Respondent No.2 – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with NCB/MZU/CR-57/2021 registered Jr. Intelligence Officer of Narcotics Control Bureau Mumbai Zonal Unit, Mumbai for the offence under Sections 8(c), 20(c), 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “**NDPS Act**”).

3. In the present crime, Applicant is arraigned as Accused No.5 having been arrested with the alleged contraband from his residence on 14.06.2021 pursuant to specific information received by the prosecution. Applicant is 72 years old.

4. In the present case, prosecution desires to examine probable 29 witnesses. Mr. Pereira would submit that the trial has not commenced.

5. Considering the indictment of the Applicant in an Special Act and his long incarceration persuades the Court to grant bail on the ground of long incarceration pending trial.

6. The Court is refraining from giving its *prima facie* imprimatur on the merits of the matter primarily because of the prosecution case as argued by Mr. Shirsat, considering the fact that other co-accused persons have been enlarged and released on bail who were apprehended with identical quantity of the alleged contraband.

7. Be that as it may, considering the age and long incarceration of the Applicant which is *prima facie* borne out from the record of the case, the case of Applicant deserves to be considered on parity.

8. Mr. Shirsat, learned Special PP has drawn my attention to the Affidavit-in-Reply dated 28.02.2025 appended at page No.372 of the Application and as however argued that since the quantity of the

alleged contraband is commercial quantity, rigours of Section 37 of the NDPS Act would apply in the present case.

9. Needless to state that complicity of the Applicant shall be proved by the prosecution at the time of trial.

10. In view of the above *prima facie* observations, 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 two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) 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;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 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;
- (vi) 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;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (ix) 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.

11. 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.

12. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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