

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3645 OF 2024

Shahnawaj Shabbir Gafur Rajput .. Applicant
Versus
The State Of Maharashtra .. Respondent

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- Ms. Munira Palanpurwala a/w Sumaiya Khan, Ms. Deepa Amati and Ms. Kaiynat Sayed, Advocates for Applicant.
 - Mrs. Rajeshree V. Newton, APP for State.
 - PSI – Dattatray Bhalke, ANC, Bandra Unit, Mumbai.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2025

P. C.:

1 Heard Ms. Palanpurwala, learned Advocate for Applicant and Ms. Newton, learned APP for State.

2 Applicant - Accused No.1 has filed the present Application for regular bail in connection with Crime No. 81 of 2023 registered with ANC, Bandra Unit for the offence punishable under Sections 8 (c) r/w Section 20 (c), (c), 29 of the NDPS Act.

3 Applicant is arrayed as Accused No.1. In a chance recovery from a public place, Applicant was apprehended with an intermediate quantity of contraband (charas) of 495 grams. Alongwith Applicant - Accused No.1, Accused No.2 was also apprehended for

possession of 495 grams of same quantity of contraband (i.e. charas).
Accused No.2 has been enlarged on bail by learned Sessions Court.

4 Insofar as Accused No.1 is concerned, till date he has undergone 1 ½ years' imprisonment in jail. Applicant has no antecedents. Statement of Accused No.1 has led to Accused No.3 who is the elder brother of Accused No.1 and from whose conscious possession 3 Kg and 783 grams of the alleged contraband (charas) has been recovered from his place.

5 Merely on the basis that there are CDR records, naming Accused Nos.1 and 3 who are brothers, learned APP would argue that Court will have to consider recovery of the alleged contraband together for all three accused. This submission of learned APP is incorrect considering that the chance recovery effected by the prosecution is only from Accused No.1 and Accused No.2 who were apprehended and arrested in a public place. So far as Accused No.3 is concerned recovery from his possession is from his home. The case of Accused No.3 *qua* Accused Nos.1 and 2 is therefore completely on a different footing.

6 Considering the quantity of alleged contraband recovered from the possession of Accused Nos.1 and 2 from a public place which is admittedly of intermediate quantity, rigors of Section 37 of NDPS

Act will not apply. Case of the Accused No.1 is similar to Accused No.2 who has already been enlarged on bail. Therefore on parity Accused No.1 deserves to be enlarged on bail since Accused No.2 has already been granted bail arising from the same crime.

7 In view of the above, 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 shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 am to 12:00 pm 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;

- 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.

8 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 merits of the case.

9 In view of the above directions, Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]