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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4142 OF 2024

Imran Noor Mohammed Memon .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Dilip Mishra a/w. Mr. Ayaz Khan and Ms. Zehra Charania and Ms. Mallika Sharma, Advocates for Applicant.
 - Mr. Megha S. Bajoria, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 03, 2025.

P.C.:

1. Heard Mr. Mishra, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State.

2. Though Medical Report *prima facie* shows that Applicant's health condition is good and he has been advised to continue using glasses and does not require surgery at present as per the Doctor's report of Sir JJ Group of Hospitals, considering the facts in the present case as also incarceration of Applicant, this Application is taken up for hearing. Applicant is apprehended with 1017 grams of alleged contraband MD.

3. Mr. Mishra, learned Advocate for Applicant would persuade the Court to consider the *prima facie* dichotomy which apparently exists on the basis of the record. He has drawn my attention to the

memorandum panchnama appended at page No.43 of the Application which when read at page Nos.46 and 47 of the Application refer to the seized contraband from Accused Nos.1 and 2 having them labelled as sample 'a' and sample 'b'. When the same is juxtaposed at page Nos.75 and 76 of the Application, it is seen that sample 'a' is attributed to the present Applicant and sample b is attributed to Accused No.1. That exercise is conducted by the prosecution for obtaining 52A certificate under the NDPS Act. *Prima facie*, it is an apparent mistake on the face of record.

4. That apart, he would submit that certificate issued by the Magistrate which is at page No.73 is in continuity with the inventory panchnama, considering the fact that it is issued pursuant to the coming into the effect of the NDPS Rules in 2022 and it is not issued as per Form 5.

5. He would submit that Application made by the Investigating Officer is not appended with the 52A certificate in question and therefore there is a clear transgression of the provisions of Section 52A by the Investigating Officer.

6. Ms. Bajoria, learned APP for the State is directed to take appropriate instructions from the concerned Investigating Officer and apprise the same to the Court on the next adjourned date.

7. It is clarified that present Application shall be decided on the next adjourned date which shall be noted by the parties.

8. Stand over to **13th March, 2025 at 02:30 p.m.**

[MILIND N. JADHAV, J.]

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