

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4150 OF 2024

Nasrin Basir Shaikh	.. Applicant
Versus	
The State Of Maharashtra	.. Respondent

-
- Ms. Afreen Shaikh a/w Mr. Nikhat Shaikh, Advocates for Applicant.
 - Mr. Hitendra J. Dedhia, APP for State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 05, 2025

P. C.:

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

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 673 of 2023 registered with Mankhurd Police Station for offence punishable under Sections 8 (c) and 22 of the NDPS Act¹.

3. Applicant is indicted in the aforesaid crime on being apprehended in possession of alleged contraband i.e. 22 bottles of Chlorpheniramine Maleate Codeine Phosphate Syrup manufactured by WELCYREX.

¹Narcotic Drugs and Psychotropic Substances Act, 1985

4. Ms. Shaikh, learned Advocate for Applicant would draw my attention to the Inventory Panchanama dated 10.01.2024 prepared by the prosecution for obtaining statutory 52-A (3) certificate from the Magistrate. She would submit that present case is covered by the decision of this Court in the case of ***Chandrabhan Janardhan Yadav Vs. State of Maharashtra***². *Prima facie* when the Inventory Panchanama and the certification of Magistrate is seen the date of certificate itself states that governing rules of NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 have not been followed. Under the said rules, Rules 8 and 18 (1) and (2) govern the field for the purpose of carrying out the enquiry contemplated under Section 52A of the NDPS Act. There can be no dereliction in the procedure that has to be carried out under the said rules. If the rules prescribe certification of the Magistrate under Form 5 appended to the NDPS Act, the same has to be done in that manner only. Certification in the present case is appended directly to the Inventory Panchanama without application made by the competent Officer / Investigating Officer in the present case. It is not the procedure contemplated under the said Rules thereby vitiating the procedure which is contemplated for Seizure and Storage of the contraband in question.

² Criminal Bail Application No. 2254 of 2024 decided on 04.03.2025.

5. In that view of the matter, Applicant has made out a case for grant of bail. Notwithstanding the fact that applicant is a lady and is required to provide care and support to her 4 year old daughter who is presently in custody of one of the relatives. The present Application is also considered on that ground.

6. Needless to state that complicity of the Applicant shall be determined in the trial on the basis of evidences and in accordance with law.

7. In view of the above, 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 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 she 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 her 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. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]