

Ajay

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

CRIMINAL BAIL APPLICATION NO. 4601 OF 2024

Altaf Abdul Rehman Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Kamlesh Satre, Advocate for Applicant.
 - Ms. Savita M. Yadav, APP for Respondent – State.
 - Mr. Karkar, API – Antinarcotic Cell Bandra Unit present.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 11, 2025.

P.C.:

- 1.** Heard Mr. Satre, learned Advocate for Applicant and Ms/ Yadav, learned APP for Respondent – State.
- 2.** This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.94 of 2021 registered with ANC Bandra Unit for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “**NDPS Act**”).
- 3.** Applicant is arraigned as Accused No.2 in the present crime. Advocate for Applicant would submit that Applicant was found in possession of 60 grams of alleged contraband MD. He would submit that Accused No.1 was apprehended and found in possession of 100 grams of the alleged contraband MD.

4. Principal defence of the Applicant is that pursuant to the aforesaid seizure and arrest, there is total non-compliance of the provisions of Section 52A of the NDPS Act and absence of the inventory panchnama with respect to the alleged contraband which is confiscated and seized. This Court has taken cognizance of the same while enlarging the Accused No.1 on bail vide order dated 05.08.2024 passed in Bail Application No.1557 of 2023.

5. Ms. Yadav, learned APP would however contend that charge has been framed and only 8 witnesses shall be examined by the prosecution and hence Application be rejected. She would however in her usual fairness submit that inventory panchnama has been carried out after filing of the charge-sheet and Applicant before the Court has 8 antecedents which should be considered by the Court.

6. Mr. Satre, learned Advocate for Applicant persuades the Court to refer to the aforesaid decision of this Court (Coram: Manish Pitale, J.) in the case of co-accused and on parity consider the quantity of the alleged contraband recovered from the Applicant and release the Applicant in the present case.

7. In view of the above *prima facie* observations from the record, Applicant has made out the case for grant of bail on parity with the co-accused who has been granted bail by the Court. Hence, 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) 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;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) 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;
- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) 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.

8. 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.

9. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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