

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5120 OF 2024

Gautam Gunadhar Ghosh

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Ms. Ashwini Achari a/w. Mr. Taraq Sayed, Advocates for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2025

P.C.:

- 1.** Mentioned out of turn at the time of rising of the Court.
- 2.** Heard Ms. Achari, learned Advocate for Applicant and Mr. Kulkarni, learned APP for Respondent.
- 3.** Applicant is incarcerated from October – 2023 for offences punishable under of the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').
- 4.** There are 7 Accused in crime. Applicant is arraigned as Accused No.6. There is no recovery from his conscious possession. However Ms. Achari would inform the Court that Accused No.6 led the prosecution team to a lift room from where 110 grams of Mephedrone has been recovered.
- 5.** It is seen that recovery of the contraband if not from conscious possession of Accused but from a space on the floor namely

the lift room and will have to be held as not from her conscious possession from Accused. The open space near the lift would be the public place, because, every member of the Society including the watchman and labours have access in the entire building. The place from which the contraband has been seized is a public place and accused has no exclusive control over the same. Therefore, *prima facie* it cannot be said that, the contraband was under the conscious possession of the accused at that time.

6. Applicant has no antecedents. He is a well qualified person and businessman as informed by the learned Advocate to the Court. Learned APP shall take appropriate instructions on the above issues and apprise the Court on the next adjourned date accordingly.

7. Stand over to **11th March, 2025**. To be placed on the ‘Supplementary Board’.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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