

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4773 OF 2024

Zaid @ Imran Gulam Hasan Choudhary ...Applicant
V/s.
The State of Maharashtra ...Respondent.

WITH
BAIL APPLICATION NO. 3679 OF 2024

Shahajad Alam Abbaas Kureshi ...Applicant
V/s.
The State of Maharashtra ...Respondent.

WITH
INTERIM APPLICATION No.4786 OF 2024

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Mr. Fakhruddin Khan and Ms Saima Ansari for the Applicant in BA/4773/24.
Mr. Ashok M. Saraogi for the Applicant in BA/3679/24 & for the Intervenor.
Mr. V.A. Kulkarni, APP for the Respondent/State.
PSI Dnyaneshwar Dalvi, attached to Dehuroad police station is present.

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CORAM : N.R. BORKAR, J.
DATE : 07.02.2025.

P.C. :

1. As both these applications for bail are arising out of one and the same crime, they are being disposed of by this common order.
2. The applicants came to be arrested in Crime No. 85 of 2024 registered at Dehu Road Police Station, Pimpri-Chinchwad for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

3. On 19.02.2024, the applicant in Bail Application No. 3679 of 2024 was apprehended and 54 gm. of Mephedrone was found in his possession. During the course of interrogation he had revealed that he had kept certain quantity of Mephedrone with the applicant in Bail Application No. 4773 of 2024. During the course of investigation recovery of additional 70 gm of Mephedrone is alleged.

4. I have heard the learned counsel for the applicants and the learned APP for the respondent – State.

5. Learned counsel for the applicant in Bail Application No.3679 of 2024 submits that there are many inconsistencies in the prosecution case. It is submitted that the applicant is in jail for one year and there are no other criminal antecedents.

6. The learned counsel for the applicant in Bail Application No. 4773 of 2024 submits that there is no recovery at the instance of applicant. It is submitted that this applicant is also in jail for 1 year and there are no other criminal antecedents.

7. On the other hand, the learned APP for the respondent/State submits that it is the case of commercial quantity. It is submitted that there is enough material against the applicants and therefore the applicant may not be released on bail in view of bar contained under Section 37 of the NDPS Act.

8. I have perused the FIR and the seizure panchanama. The request was made to the Regional Officer, Health Department, PCMC Pune to make available an employee from their department to act as a panch witness for search and seizure of contraband from the applicant in Bail Application No.3769 of 2024. According to the prosecution, pursuant to the said request panch witness Sunil S. More was made available to act as panch witness. However, in the charge-sheet there is no document to that effect. This *prima facie* creates doubt about the prosecution case. There is no recovery of alleged contraband at the instance of the applicant in Bail Application No.4773 of 2024. Considering these facts and as there are no other criminal antecedents against the applicants, I am inclined to release them on bail on certain conditions. In the result, the following order is passed :

ORDER

A] The Applications are allowed.

B] The applicant - Zaid @ Imran Gulam Hasan Choudhary and the applicant - Shahajad Alam Abbaas Kureshi shall be released on bail in C.R. No.85 of 2024 registered at Dehu Road Police Station, Pimpri Chinchwad for the offences punishable under Sections 8(c), 22(c) and 29 of the NDPS Act on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) each with one or two sureties in the like amount.

C] The applicants shall attend the concerned police station twice in a month, i.e., on 1st and 3rd Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.

D] The applicants shall regularly attend the dates before the trial Court.

E] The applicants shall not commit any other crime of similar nature.

F] If the aforesaid conditions are breached, the bail order shall stand automatically cancelled.

[N.R.BORKAR, J.]