

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 474 OF 2025

Jugal Badshah Sheikh .. Applicant

Versus

The State Of Maharashtra .. Respondent

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- Mr. Ratnadeep Meshram a/w Mr. Harshad Meshram, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for State.
- PSI – Nitesh Mahadik, APMC Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 21, 2025

P. C.:

1. Heard.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 100 of 2024 registered with APMC Police Station, Navi Mumbai for the offences punishable under Sections 8(c), 21(c) and 29 of the NDPS¹ Act. Applicant is indicted as Accused No.2 in the present crime.

3. In a chance raid in order to take action against illegal activities, the prosecution team decided to take appropriate action on 20.03.2024. At 09:00 pm the prosecution team started its operation and by about 12:05 am they raided a place near Green Park Hotel, APMC Market, Navi Mumbai where they found certain persons (males

¹Narcotic Drugs And Psychotropic Substances Act, 1985

and females) making repeated visits to a particular slum like structure. They raided the structure and found that there some of the Accused persons were packaging the alleged contraband material namely Mephedrone (MD). Accused persons were searched and alleged contraband was seized from their persons in accordance with the provisions of Section 50 of the NDPS Act. They were arrested on the spot.

4. Seizure panchanama appended at Page No. 27 of the Application states that the alleged contraband seized from accused persons namely Mephedrone weighed 55.53 grams when the weight was taken. That apart a plastic bag which contained the alleged contraband was separately weighed at 1.02 grams. Reference in the seizure panchanama is to the presence of 5 plastic spoons and the Newspaper in which the plastic bage with contraband was wrapped. Three males and two females were arrested who are the 5 accused in the present crime. Accused No.2 is before me. Two female accused have been enlarged on bail.

5. Mr. Meshram, learned Advocate for Applicant would draw my attention to the inventory panchanama which is appended at Page No.58 of the Application and persuade me to juxtapose it with the seizure panchanama and consider that if action under Section 52A of the NDPS Act with respect to the seized contraband in question is

seen, then the alleged contraband is shown to weigh 70 grams. When the inventory panchanama is read and the inventory certificate issued under Section 52A of the NDPS Act is seen it states that out of the said sealed contraband weighing 70 grams exercise of sampling is done by removing the samples quantifying 5 grams each. *Prima facie* reading of the said certificate is in contradiction with the contents of seizure panchanama in respect of the weight of the alleged contraband.

6. The only explanation offered by learned APP on instructions is that weight of 70 grams stated in the Inventory panchanama / certificate on page No.58 is along with the entire material including the contraband. Though it is stated so, the breakup of the alleged contraband which is 55.53 grams as stated in the seizure panchanama, is not shown separately, neither it is deciphered on reading of the inventory certificate. Even if the quantification of samples drawn out of the sealed contraband is seen, all that it states is that the sum total weight of all material is 70 grams. In the same inventory certificate / panchanama, reference is made to 47 grams of the alleged contraband after sampling has been effected. In that case it would add up to 57 grams considering weight of the samples which have been drawn out of the seized contraband. Still looking at the articles which are marked as X, X1 and X2, it does not add up to 70 grams which is the total weight stated in the inventory panchanama /

certificate. An apparent dichotomy being clearly noticeable is in transgression of the provisions of Section 52A of the NDPS Act. Though it is argued by the learned APP that in any event the weight of the alleged contraband seized is of commercial quantity and therefore rigour of Section 37 would apply, I have heard the learned APP and have not got a satisfactory answer to the discrepancy existing in the inventory panchanama / certificate which is appended at Page No.58 of the Application *qua* the seizure panchanama. That being so the Applicant will have to be given the benefit of doubt as statutory procedure of seizure is to be complied with scrupulously. Needless to state that complicity of the Applicant in the crime will be proven by the prosecution in the trial.

7. 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. 50,000/- 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 he 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 his 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. In view of the above directions, Bail Application is allowed and disposed.