

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.607 OF 2025

Firoz Mohammad Yasin Khan

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Ms. Afreen Shaikh a/w. Ms. Nikhat Shaikh, Advocates for Applicant.
- Mr. Sukanta A. Karmakar, APP for Respondent.

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2025

P.C.:

1. Heard Ms. Shaikh, learned Advocate for Applicant and Mr. Karmakar, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.196 of 2023 registered with C.B.D. Belapur Police Station for offences punishable under Section 8 (c) read with Sections 22 and 29 of the Narcotic and Psychotropic Substances Act, 1985 (for short 'NDPS Act') .

3. After hearing Ms. Shaikh, learned Advocate and Mr. Karmakar, learned APP on 20.02.2025, the following order was passed:-

"1. Heard Ms. Shaikh, learned Advocate for Applicant and Mr. Karmakar, learned APP for Respondent – State of

Maharashtra.

2. *This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.193 of 2023 registered with C.B.D. Belapur Police Station for offences punishable under Section for offences punishable under Section 8 (c) read with Sections 22 and 29 of the Narcotics and Psychotropic Substances Act, 1985 (for short 'NDPS Act').*

3. *Applicant is incarcerated since 27.09.2023 for offences punishable under NDPS Act. Applicant is arraigned as Accused No.3 in the crime. He has been apprehended for possession of 53 grams of Mephedrone i.e. alleged contraband.*

4. *Principal defence of Applicant is non-compliance of provisions of Section 50 of the NDPS Act. My attention is drawn by Ms. Shaikh to page No.48 of the Application which is the information given to Applicant under Section 50 of the NDPS Act.*

5. *Ms. Shaikh would submit that said letter does not bear the date and remark with respect to taking his search which prima facie appears to be incongruous on the face of record.*

6. *Mr. Karmakar would take appropriate instructions from Investigating Officer and clarify the aforesaid position and if possible place the original copy of the letter appended at page No.48 for appraisal of the Court.*

7. *Another dichotomy which Ms. Shaikh points out his name of Informant appearing on page No.40 is not in consonance with statement of Informant which is recorded on 27.09.2023 which appears to be different.*

8. *Mr. Karmakar, learned APP shall take appropriate instructions on the same and apprise the Court accordingly.*

9. *List the matter on 06th March, 2025. To be placed on 'Supplementary Board'."*

4. The bone of contention raised by Ms. Shaikh is appraisal letter appended at page No.48 of the Application.

5. *Prima facie*, the said letter of appraisal does not bear the date. The reason for the same probably is inexplicable especially when the letter of appraisal issued to the other co-accused person appended at page No.47 of the Application is seen.

6. Be that as it may, on *prima facie* consideration of page Nos.47 and 48 i.e. appraisal letters, the discrepancy as well transgression is noted by the Court.

7. In view of guidelines laid down in paragraphs Nos.65 and 66 by the Supreme Court in the decision in the case of ***Ranjan Kumar Chadha Vs. The State of Himachal Pradesh***¹ and more specifically guideline Nos.(i), (iv) and (vi) and apparent dichotomy noted in the appraisal letter in the present case, Applicant has made out case for grant of bail on the ground of the aforesaid transgression. Bail Application is therefore allowed.

8. Applicant is allowed to be released on bail subject to following condition:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.15,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.15,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

¹ 2023 SCC OnLine SC 1262

- (iii) 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;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) 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;
- (vi) 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;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (ix) 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.

9. 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.

10. Bail Application No.607 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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