

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.885 OF 2025

Arbaz Ahmedchand Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Ms. Lochan Chandka, Advocate for Applicant.
 - Mr. Hitendra J. Dedhia, APP for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 19, 2025

P.C.:

1. Heard Ms. Chandka, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.521 of 2024 registered with Bazarpeth Police Station for offences punishable under Sections 8(c), 20(b) and 29 of the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').

3. Applicant is apprehended with 3.64 grams of alleged contraband namely 'Mephedrone' (for short '**MD**') recovered from him. *Prima facie*, a doubt is cast on prosecution case because in the Seizure Panchnama, it is allegedly stated that recovery of the alleged contraband is of 9 grams from this Applicant. Applicant has no antecedents whatsoever.

4. That apart, *prima facie* the provision of Section 50 of the NDPS Act are transgressed when it is seen that the Officer who has intercepted the Applicant has informed him that he himself is a Gazetted Officer and he has the right to search the Accused.

5. In view of the aforementioned transgression of provision of Section 42 which is seen from the Seizure Panchnama, as also further non-compliance of Section 52A of the NDPS Act as certificate of Magistrate is not in the mandatory Form – 5 prescribed under Rules 8 and 18 (1) and (2) of the Narcotic Drugs And Psychotropic Substances (Seizure, Storage, Sampling And Disposal) Rules, 2022 and rigors of Section 37 of the NDPS Act not been applicable to recovery of intermediate quantity, the Applicant has made out a case for grant of bail. Bail Application is allowed subject to following conditions:-

- (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) 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.

6. 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.

7. Bail Application No.885 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]