



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 463 OF 2025

Mohammad Ashraf Raeen @ Mohammad Ashraf Rain Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. T. Mooman, counsel with Mr. M.R. Pande, counsel for applicant.
Ms. T.U. Udeshi, APP for non-applicant/State

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/08/2025.

1. Apprehending the arrest at the hands of police in connection with Crime No.532/2024 registered with Police Station Barshitakli, District Akola for the offences punishable under Sections 8(c), 22(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985; Sections 318(4), 336(3), 338, 341(2) of the Bhartiya Nyaya Sanhita; and Section 238 read with Section 135 of the Electricity Act. The applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant/accused is on the basis of a report lodged by the police inspector Shankar Shelke, LCB Akola, on 24/10/2024, on an allegation that when he, along with other police staff, was on patrolling duty within the limits of the Barshitakli police station at about 6:00 hours, he received secret information that the psychotropic

substance mephedrine (MD) was manufactured in the premises of the defunct ginning mill of Mohammed Shafi situated at Barshitakli. The information was that the drug was manufactured. On the basis of information, the raid was conducted. During the raid, the huge stock weighing 5548 grams worth of Rs.1,38,70,000/- was found.

3. The learned counsel for the applicant submitted that the applicant had no involvement in the alleged offense and was implicated as an accused due to mistaken identity. As far as his involvement is concerned, there is no material on record to suggest that he supplied or received the said raw material to or from the other co-accused. In view of that, his custodial interrogation is not required, and therefore, the application deserves to be allowed by granting anticipatory bail to the present applicant.

4. Learned APP strongly opposed the application and submitted that not only the involvement of the applicant there, but the investigation papers show that he is the person who has supplied the raw materials i.e the chemicals for manufacturing and making the contraband mephedrine, and therefore, his custodial interrogation is required.

She also placed reliance on one of the decision in Criminal Application No. 818/2024, by

which the bail application of the co-accused for grant of anticipatory bail is rejected by this Court.

She also placed reliance on the decision of the *State of Haryana Vs Samarth Kumar* passed in *[Criminal Appeal No.1005 of 2022 (Arising out of SLP (Crl.) No.6575 of 2021. D/d. 20.7.2022)]*, wherein the Hon'ble Apex Court has considered the aspect of the considerations given by the Hon'ble Apex Court in the case of *Tufan Singh vs State of Tamil Nadu (2021) 4 SCC 1* and observed that, in the case of this nature the respondent will be able to take advantage of the decision in the case of *Tufan Singh* referred (supra) perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial. On this ground and mentioning Section 37 which is a rigor-c prays for the rejection of the application.

5. On hearing both sides and on perusal of the investigation papers, it reveals that during the raid the investigating officer seized the articles, which were in the nature of ephedrine. The samples taken from the said articles were forwarded to the chemical analysis, which was in the nature of (1) white coloured crystalline powder in a stapled polythene put in an envelope, (2) brown coloured crystalline powder, (3) white coloured crystalline powder, (4) colourless liquid in plastic jar, (5) colourless liquid, (6) white coloured

crystalline powder, and (7) plain yellowish coloured liquid.

6. During the analysis, white coloured crystalline powder and brown coloured crystalline powder were analyzed as mephedrine, and the said CA report is on the record. During the investigation and the statement of the witnesses, it was revealed that it was the present applicant who had supplied the necessary chemicals to the tune of 5.48 Kgs amounting to Rs. 1,38,70,000/-. It reveals that the present applicant is one of the person who, along with the other co-accused, supplied the said material to the other co-accused for the manufacturing of the said mephedrine. During investigation, the statements of the witnesses are recorded, including the statement of one Nisar Niyazi Mukhtar Niyazi, from which it reveals that the said goods are received from the present applicant and the other co-accused, and delivery was obtained by the co-accused, namely Patyhan Imran Khan Aslam Khan. The CDR reports are also collected. The present applicant was also absconding when the search was taken. By considering all these aspects, the application of the present applicant deserves to be rejected.

7. Moreover, while considering the anticipatory bail, the nature of the allegation plays an important role. While considering the investigation papers, it reveals that the involvement of the present applicant

and the supply of the chemicals by the present applicant are revealed therefore, rigor under Section 37 of the NDPS Act would apply. In view of that, the application of the present applicant for grant of anticipatory bail deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

a] The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]