

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.4297 OF 2024

Mohd. Sahil Saddique Shaikh

...Applicant

V/s.

The State of Maharashtra

...Respondent

Adv. Munira Palanpurwala a/w Adv. Deepa Amati, Adv. Sumaiya Khan & Adv. Kainat Sayed, for the Applicant.

Smt. Madhavi H. Mhatre, APP for the Respondent-State.

Mr. Vishal Chandanshive, Anti-Narcotics Cell, Bandra Unit, Mumbai, present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 11th FEBRUARY, 2026

P.C. :-

. Applicant, accused in NDPS Special Case No.1472 of 2022 arising out of an FIR bearing C.R.No.138 of 2022 registered with Anti Narcotic Cell, Bandra Unit, Mumbai for offence punishable under Sections 8(c) r/w 22(b) and 22(c) of the Narcotic Drugs and Psychotropic Substance Act, 1985 ("NDPS Act"), seeking his release on bail in the said case pending for trial in the Court of the learned NDPS Special Judge, City Civil and Sessions Court, Greater Bombay.

2) Heard Ms. Palanpurwala, learned counsel for the Applicant and Smt. Mhatre, learned APP for the Respondent-State. Perused the record.

3) The prosecution case is that, on 14.06.2022, at 17.30 hours, informant Atul Saudane, police constable, his superiors and other police members left for patrolling to check the narcotic cases in the jurisdictional area. At about 18.00 hours, when they arrived in front of Bahr Al Hikmah Masjid, Nargis Dutt Nagar, Bandra, the Applicant was present there and his behaviour was suspicious. Therefore, the police team approached the

Applicant but he tried to run away. Therefore, the Applicant was apprehended by said police and in presence of two panchas, the plastic bag in possession of the Applicant was searched. Total 8 bottles each containing 100 ml. liquid mixed with prohibited narcotic substance 'Codeine Phosphate' were found in the said bag. Said bottles were seized in the presence of two panchas by following the procedure of law. Thereafter, a complaint was filed by the informant leading to registration of the present crime and the Applicant was arrested on the same day. During police custody, the Applicant made a voluntary disclosure statement leading to recovery of 510 such bottles containing similar liquid mixed with prohibited narcotic substance 'Codeine Phosphate'. On completion of investigation, charge-sheet was submitted for the said offences. The Application seeking release of the Applicant on bail came to be rejected by the trial Court by Order dated 02.11.2023. Hence, this Application.

4) Ms. Palanpurwala, the learned counsel for the Applicant submitted that, mainly, the bail is sought on the ground of long incarceration. In this regard she has submitted that the charge-sheet was submitted in the year 2022, but, the charge was framed on 15.02.2024. Since then, only four witnesses have been examined. As such, the prosecution may take more time to examine the remaining witnesses. She submitted that the Applicant has no antecedents under the NDPS Act. Therefore, bail may be granted.

5) The learned APP has strongly opposed the Application, contending that a huge quantity of contraband has been seized from the possession of the Applicant, which is of a commercial quantity. As such, there is *prima facie* case against the Applicant of a serious offence. Therefore, the restrictions in Section 37 of the NDPS Act for grant of bail are existing against the Applicant. If granted bail, the Applicant is likely to repeat the offence. Therefore, bail may be refused.

6) It is not disputed that after filing of the charge-sheet in the year 2022, the charge was framed in February 2024, and since then, only four witnesses have been examined. Total 11 witnesses have been shown in the list. The learned APP states that, only four witnesses are remained to be examined. Copies of the *roznamas* produced by the learned Counsel for the Applicant indicate that PW-3 was examined on 22.10.2024 and the PW-4 has been examined recently on 10.01.2026, *i.e.*, after 14 months. At this pace, the prosecution may take more time to examine the remaining witnesses. The Applicant is behind bars since last 3 years and 7 months. There are no antecedents against the Applicant under NDPS act. As stated by the learned APP, previously, one criminal case of Section 324 of I.P.C. was registered against the Applicant and it is pending. But, the Applicant is on bail.

7) In the case of ***Rabi Prakash Vs. State of Odisha***¹ the Applicant therein was arrested with two others for possessing 247 kg. of Ganja. Only one out of the 19 witnesses was examined. Therefore, the Hon'ble Supreme Court observed that, the conclusion of the trial will take some more time and, considering the period of incarceration, *i.e.*, three and half years, the Applicant was granted bail. This case is applicable to the case in hand.

8) In the wake of above, I am inclined to allow the Application. Hence, following Order.

:: ORDER ::

- (a) Application is allowed.
- (b) The Applicant - Mohd. Sahil Saddique Shaikh is directed to be released on bail in NDPS Special Case No.1472 of 2022 arising out of an FIR bearing C.R.No.138 of 2022 registered with Anti Narcotic Cell, Bandra Unit, Mumbai for offence punishable under Sections 8 (c) r/w 22(b) and 22(c) of the

¹ 2023 SCC OnLine 1109

NDPS Act, pending for trial in the Court of the learned NDPS Special Judge, City Civil and Sessions Court, Greater Bombay, on his executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.

- (c) The Applicant shall report to Anti Narcotic Cell, Bandra Unit, Mumbai, on 1st and 16th date of each calendar month, between 10:00 a.m. to 01:00 p.m., till conclusion of the trial.
 - (d) The Applicant shall attend each and every date before the trial Court, unless exempted by said Court, and cooperate for expeditious disposal of said case.
 - (e) The Applicant shall not tamper with the prosecution evidence and witnesses in any manner.
 - (f) The Applicant, upon being released on bail, shall place on record of the trial Court the details of his contact number and residential address with updates in case of any change.
- 9) With the above observations, the Application is disposed of.

(SHYAM C. CHANDAK, J.)