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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1088 OF 2025

Reddy Mallesh Shadkinur @ Raju	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondents

Mr. Nilesh Bangar, with Kamlesh Satre, for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent-State.

CORAM: R. M. JOSHI, J.
DATED: 27th MARCH, 2026.

PC:-

1. The Applicant seeks bail only on the ground of long incarceration in connection with Crime No. 01 of 2023 registered with the Anti-Narcotic Cell, Mumbai, for the offences punishable under Sections 8(c), 22(b), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

2. Learned counsel for the Applicant submits that the Applicant is arrested on 31st December 2022 and since then, he is in custody. He relies upon an order of the Hon'ble Supreme Court in the case of *Rabi Prakash v. the State of Odisha*¹ to seek bail.

3. The learned APP opposes the Application by submitting that from the present Applicant, 110 grams of Mephedrone ('MD') was recovered so also, pursuant to the information given by him, there

1 2023 SCC OnLine SC 1109

is a recovery from the Co-accused of 460 grams of MD. It is submitted that this is not the case wherein there is non-compliance of the provisions of Sections 42 or 50 of the NDPS Act.

4. It is not the case of the Applicant that there is non-compliance of mandatory provisions of the NDPS Act. Thus, it could be said that the mandatory provisions of the NDPS Act are complied with. The Applicant is seeking bail only on the ground that he is in jail since 2023. The judgment cited in the case of ***Rabi Prakash (Supra)***, does not lay down the proposition of law that in all cases, an Accused, irrespective of the nature of evidence against him, needs to be enlarged on bail.

5. In this regard, reference can be made to the judgment of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh vs. Kajad***² wherein it is held as under:

"6. ... A perusal of Section 37 of the Act leaves no doubt in the mind of the Court that a person accused of an offence, punishable for a term of imprisonment of five years or more, shall generally be not released on bail. Negation of bail is the rule and its grant and exception under sub clause (ii) of clause (b) of Section 37(1). For granting the bail the court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences with which he is charged and further that he is not likely to commit any offence while on bail. It has further to be noticed that the conditions for granting the bail, specified in clause (b) of sub-

² 2001(7) SCC 673

section (1) of Section 37 are in addition to the limitations provided under the Code of Criminal Procedure or any other law for the time being in force regulating the grant of bail. Liberal approach in the matter of bail under the Act is uncalled for."

6. In view of the above law laid down by Hon'ble Supreme Court, Applicant is not entitled to bail, as the embargo of Section 37 of the NDPS Act would apply to instant case.
7. In view of the foregoing discussion, the Application stands rejected.
8. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

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