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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1813 OF 2025

Mohd Zaid Farukhi Shaikh	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Karim Pathan (On V/C), with Fazal Shaikh and Kahkashan Ansari, for the Applicant.
Ms. S. D. Shinde, APP for the Respondent-State.
Mr. Avale (I.O.), PSI and HC 060119 attached to ANC Azad Maidan Unit, Mumbai, present.

CORAM: R. M. JOSHI, J.
DATED: 7th APRIL, 2026.

PC:-

1. The Applicant seeks bail in connection with Crime No.87 of 2023 dated 19th October 2023, registered with the Anti Narcotic Cell, Azad Maidan Unit, Crime Branch, Mumbai, for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. In short, it is the case of the prosecution that during patrolling, the present Applicant was intercepted. On compliance of provisions of Section 50 of the NDPS Act, his personal search was taken and from his possession, 100 grams of Mephedrone ('MD') was seized. On further investigation, the role of the Co-

accused was revealed. On conclusion of investigation, charge-sheet is filed.

3. Learned counsel for the Applicant submits that out of four Accused persons, two are already granted bail. Apart from this, it is his submission that the Applicant is behind bars for two and half years and that since he has no criminal antecedents, he be enlarged on bail. On merits, it is his submission that this is the case wherein there is non-compliance of Section 50 of the NDPS Act. In that regard, reference is made to the written notice issued under Section 50 of the NDPS Act indicating that the said notice was issued on 19th October 2023 whereas, the search and seizure was done on 18th October 2023. On these amongst the other contentions, he seeks bail.

4. The learned APP opposes the Application by pointing out that there is material on record to indicate that panchanama was commenced at 11.45 p.m. of 18th October 2023 and concluded at 1.05 a.m. on 19th October 2023. It is thus, submitted that the issuance of notice dated 19th October 2023 is explainable during trial. She further pointed out that the Co-accused against whom similar allegation of recovery of 100 grams of MD is made, his Application is rejected by this Court by order dated 14th November 2025.

5. The contention of the learned counsel for the Applicant with regard to non-compliance of Section 50 of the NDPS Act is not supported by the material on record in the charge-sheet. Perusal of the panchanama indicates that the Applicant was apprehended at 23.20 Hours (11.20 p.m.) on 18th October 2023. However, time

was taken to call pancha witnesses so also, to complete further procedure. As recorded in the panchanama, panchanama for the search and seizure has commenced at 11.45 p.m. of 18th October 2023 and concluded at 1.05 a.m. on 19th October 2023. Thus, it is open for the prosecution to explain the date of 19th October 2023 mentioned in the written notice. Apart from this, it is specifically stated in the panchanama that the Applicant was apprised of his rights under Section 50 of the NDPS Act even orally. Thus, at this stage, this Court has no reason to accept the contention of the learned counsel for the Applicant about non-compliance of the provisions of Section 50 of the NDPS Act.

6. Insofar as the bail sought by the Applicant on the ground that he is in jail for a period of over two years, 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***¹ 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

¹ 2001(7) SCC 673

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-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."

7. Similarly, in case of **NCB v. Mohit Aggrawal²**, it is held that the length of the period of his custody or the fact that the charge-sheet has been filed and trial has commenced are, by themselves, not considerations that can be treated as persuasive ground for grant of relief to the Respondent under Section 37 of the NDPS Act.

8. In view of the above law laid down by Hon'ble Supreme Court, the Applicant is not entitled to bail, as the embargo of Section 37 of the NDPS Act would apply to instant case as it is necessary to record that similar offence has been registered against the Applicant. As such, this Court cannot record a finding that the Applicant is not likely to commit similar offence if he is enlarged on bail. Thus, embargo of Section 37 of the NDPS Act has application to the present case.

9. In view of the foregoing discussion, the Application stands rejected.

² (2022) 8 SCC 374

10. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

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