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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

CRIMINAL BAIL APPLICATION NO.3640 OF 2025

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Mohammad Sabi Safulla Shaikh

...Applicant

V/s.

State of Maharashtra

...Respondent

Mr.Kamlesh Satre with Mr.Nilesh Bangar for the Applicant.

Mr.A.R. Kapadnis, APP for the State - Respondent.

CORAM : R.M. JOSHI, J.

DATE : 17TH APRIL, 2026.

P.C. :-

1. The Applicant seeks bail in connection with Crime No.17 of 2025 registered with Dharavi Police Station for the offences punishable under Sections 8(c), 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”) and under Sections 112(2) and 238 of the Bhartiya Nyaya Sanhita, 2023 (for short “BNS”).

2. In short, it is the case of the prosecution that during patrolling on 6th January, 2025, the co-accused were intercepted.

From them, 988 bottles of Codien Phosphate cough syrup were seized. It is further the case of the prosecution that during interrogation with them, the name of the present Applicant was revealed as the supplier of the said contraband. Pursuant to the said information, the place was raided from where further recovery was done of the same contraband. On conclusion of the investigation, chargesheet is filed.

3. Learned counsel for the Applicant submits that here in this case, there is non-compliance of Section 42 of the NDPS Act. It is his submission that even in case where the name of the Applicant is revealed, pursuant to the statement made by the co-accused, such compliance becomes mandatory. To support this submission, he placed reliance on the order of this Court in Bail Application No.1760 of 2021 dated 1st February, 2023. Apart from this, it is his submission that there is no evidence to connect the said alleged recovery to the Applicant.

4. Learned APP opposed the application firstly, by pointing out the seriousness of the crime and secondly there are as many as 18 offences against the Applicant, out of which 4

offences are under NDPS Act. He drew attention of the Court to the statement of witness, who states about the Applicant and another person keeping contraband on the roof of his house. It is his submission that this evidence is sufficient to connect the Applicant to the said recovery.

5. At the outset, it needs to be recorded that Section 42 of the NDPS Act is not complied in this case. This Court therefore, finds no reason to take any different view than the one taken by the Co-ordinate Bench of this Court in the order dated 1st February, 2023 passed in Bail Application No.1760 of 2021.

6. Apart from this, the seizure has been done on 7th January, 2025 that too not from premises belonging to the Applicant but from the roof of the immediate neighbour's house. Pertinently the statement of this neighbour is recorded on 28th January, 2025. Even otherwise, he does not state that the said recovery was witnessed by him. All these facts create doubt with regard to the involvement of the Applicant in this crime.

7. Once the prosecution is unable to show the evidence

connecting the Applicant to the crime, the riggers of Section 37 of the NDPS Act would not apply.

8. Hence the following order :

ORDER :

- a). The Application stands allowed.
- b). The Applicant be enlarged on bail in connection with Crime No.17 of 2025 registered with Dharavi Police Station on furnishing PR bond of Rs. 30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.
- c). The Applicant not to indulge into similar or other crime.

(R.M. JOSHI, J.)