



In The Court of Judge Special Court NDPS Act, Nagpur.

Presided over by
Shri. P. M. Nagalkar.

I. A. No.1 of 2024.
Special Case No.825 of 2024.
CNR No: MHNG010127302024.
Crime No.376 of 2024, P. S. Sakkardara.

State of Maharashtra.
(Through P. S.Sakkardara.)
V/s
Abdul Rafik and ors.

Applicant - Moh. Sohel @ Shoeb Moh. Shakil.

Order below Exh.4.
(Date: 8th January 2025.)

1. This is an application for issuance of directions as applicant/accused Moh. Sohel @ Shoeb Moh. Shakil, be released on bail, U/Section 483 of the Bhartiya Nagarik Suraksha Sanhita. Applicant/accused booked in Crime No.376 of 2024, for the offences punishable U/Sections 8(c), 20(b)(ii) and 29 of the NDPS Act.
2. Perused the application along with documents annexed here with and say/report of Investigating Officer/APP. Heard both the sides at length.
3. In the light of this facts emerged, submissions by the parties and material on the record, the following points arise for determination before this Court. The said points and the findings thereon which follow the reasons as:

Point For Determination.

Sr. No.	Point	Finding
1.	Whether the applicant/accused Moh. Sohel @ Shoeb Moh. Shakil, made out the case as to issuance of direction as to be released on bail, in the given set of facts?	...Yes.
2.	What order?	...Application allowed as per final order.

REASONS***As to the point no.1:***

4. The applicant came with case that there is absolutely no case against him and falsely implicated in this case. The seizure from other accused person and he was never involved in this case. However, it is submitted that he is having dependency of his family with three children. No criminal antecedents against him. The applicant is suffering from chest ailment. In this backdrop it is submitted that investigation almost substantially completed and further interrogation is not necessary.
5. On the other hand the application opposed by the APP and I. O. on the ground that from this applicant 7.75 kg of Ganja found along with motorcycle and two mobile phone, cash amount of Rs.1,55,000/-. Further it is submitted that there is possibility of repetition of crime, if the applicant released on bail.
6. On going through the FIR it appears that while patrolling at near Mela ground Tajbagh the applicant found in suspicious manner with two bags. The police came there and they asked to escape therefrom three persons were found. On their interrogation told name as Abdul Rafique the present applicant Dhanesh and one mobile phone on

following due procedure of law notice was given and search was effected. From accused No.1 found mobile phone, vehicle and one white colour bag as 5.750 kg of Ganja. On search of the present applicant found two mobile phone, cash amount of Rs.40,000/-, one Shine motorcycle and red colour bag was found. On opening found 2 kg Ganja found therein.

7. From the applicant no contraband found only a mobile phone was found. As such, he was merely present there as per the prosecution case. As already other accused persons released on bail.
8. As such it is submitted that it is question of fact as whether both these applicants were found at the same place at two different place, they cannot be treated as composite quantity. Even the quantity which is found with accused is different quantity. Even composite quantity from other accused is taken into consideration and then also as intermediate quantity and hence, rigor of Section 37 of the NDPS Act is not applicable.
9. Apparently the applicant arrested on 06/10/2024 and since then he is in custody. The seizure have already been made and charge-sheet filed after investigation. Hence, in the given set of facts as the applicant is ready to abide by any condition and no criminal antecedents against him. The applicant is suffering from chest pain and dependency of his family. Hence, subject to stringent condition it is fit case to exercise the discretion of bail. Hence, the finding of point no.1 is recorded as '*Affirmative*'. Consequently, proceed to pass following order.

ORDER

1. Application is allowed.
2. Applicant/accused Moh. Sohel @ Shoeb Moh. Shakil, be released

on bail, on executing Personal Recognition for bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with surety in the like amount, in Crime Register No.376 of 2024 of Sakkardara *Police Station*, for the offence punishable U/Section 8(c), 20(b)(ii) and 29 of the NDPS Act, subject to following conditions :-

1. *The applicant shall not tamper with the evidence and the witnesses, in any manner. Further, the applicant is directed shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.*
2. *The applicant shall not commit the similar offence of which he is charged.*
3. *Applicant is further directed as to submit complete address proof of his own and as well as two those persons who are related to him.*
4. *Applicant/accused shall remain present on each date of proceeding or as and when called.*

Dictated and pronounced in open Court.

Date : 8th January 2025.

(Pramod M. Nagalkar)
Judge Special Court NDPS Act,
Nagpur.