

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

CRIMINAL BAIL APPLICATION NO.227 OF 2026

Shiva Hiralal Gupta ...Applicant

V/s.

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.802 OF 2026**

Shahnawaz Abid Chinoy ...Applicant

V/s.

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.862 OF 2026**

Mohammad Akram Surti ...Applicant

V/s.

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.1037 OF 2026**

Mohammad Hanif Mohammad Yaseen Shaikh ...Applicant

V/s.

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.373 OF 2026**

Nahendra Mahendra Makhwana ...Applicant

V/s.

The State of Maharashtra ...Respondent

Mr. Sherali S. Khan, a/w Adv. Veeraj Naik, Adv. Tabish Shaikh &
Adv. Yukta Chavan, for the Applicant in BA/227/2026.
Mr. Anil G. Lalla a/w Mr. Yash S. Pulekar, for the Applicant in
BA/802/2026.

Mr. Taraq Sayed a/w Ms. Ashwini Achari, Adv. Anish Pereira, Mr. Aryan Kotwal, for the Applicant in BA/862/2026.

Mr. Kamlesh M. Satre a/w Adv. Prachi Doiphode & Adv. Praful Gadekar, for the Applicant in BA/1037/2026.

Ms. Munira Palanpurwala a/w Ms. Sumaiya Khan & Ms. Deepa Amati, for the Applicant in BA/373/2026.

Ms. A. A. Deshmukh, APP for the Respondent-State.

Mr. Ganesh Dada Karche, PSI, IO, Mr. M. Khandare, API, D.C.B., CID., Ms. Dipali Pawse, PSI and Mr. Pradip Dupate, PI, R.C.F. Police Station, present.

CORAM: SHYAM C. CHANDAK, J.

DATED : 10th SEPTEMBER, 2026

P.C. :-

1. Heard learned Counsel for the parties. Perused the record.
2. Applicants, the Original Accused Nos.2, 4, 8, 9 and 10 are seeking their release on bail in connection with Cr.No.159 of 2025 registered with R.C.F. Police Station, Mumbai for the offence punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs And Psychotropic Substances Act, 1985 ("NDPS Act"), on the report dated 19th March, 2025, filed by Mr. Vijay Sheshrao Wani, ASI.
3. All the applications are arising out of similar crime, therefore, heard together and are being disposed of by this Order.
4. The prosecution case is that on 18th March 2025, at about 22.00 hours, police team of RCF Police Station, headed by PSI - Khandare including first informant – Vijay Wani, were patrolling in Chembur area. When, they arrived near J.K. Company, Patel Nagar, Mahul, Chembur, Mumbai, A1 was present there and his conduct was suspicious. The said police accosted A1. On inquiry, A1 gave evasive replies. In the personal search of A1 in the presence of the panchas, 45 grams of Mephedrone was found in his possession. Therefore, the aforesaid crime came to be registered. On the basis of

statement of A1 and secret information, A2-Shiva Gupta @ Shiva Chembur was traced and arrested. On inquiry, A2 revealed that he had procured that contraband from A3. This led to arrest of A3. Pursuant to A3's voluntary disclosure, 144 grams of Mephedrone was recovered from him by the police. Additionally, A3 disclosed that he used to procure the contraband from A4, Shahanawaz Chinoy. Therefore, A4 was arrested on 03/05/2025. A3 disclosed that he used to purchase the contraband from A4 and has been selling MD for one year, which was corroborated by chats between A3 and A4. A4 disclosed that he used to procure the contraband from A5. On basis of statement of A4, A5 was arrested on 15/05/2025. Pursuant to A5's voluntary disclosure, 6.5 Kg. Of Mephedrone was recovered from him. A5 disclosed that he used to procure the contraband from A6. Pursuant to A6's voluntary disclosure, 5.525 Kg. of Mephedrone was recovered from him, which he had procured from A7. Consequently, A7 was arrested on 10/06/ 2025 and, on A7's disclosure, 96 grams of Mephedrone was recovered. A7 disclosed that he used to manufacture the Mephedrone at the instance of absconding accused Salim Dola and, supply that contraband to A8-Mohammed Akram Surti, A9-Mohammed Hanif Shaikh and A10- Narendra Makhwana and A11 to sell the same. Therefore, the A8 to A11 came to be arrested. It is alleged that all the accused persons were working for A12 Salim Dola. On completion of investigation, police submitted the charge-sheet. The trial Court refused to release the applicants on bail. Therefore, they have approached this Court.

5. The learned Advocate for the respective applicants submitted that there is no sufficient and legal evidence making out a *prima facie* case of the alleged offence against the applicants. There is no

recovery of the contraband from the possession of the applicants. Therefore, the applicants are entitled for bail on conditions that may be imposed by this Court.

6. Ms.Deshmukh, the learned APP, on the other hand submitted that, A1 has clearly stated that the applicants used to supply the contraband to him. There is huge recovery of the contraband from A5 and A7. There were telephonic and whatsApp contacts amongst the accused persons. As such there is a *prima facie* case against the applicants. Therefore and, looking at the commercial quantity of the contraband substance recovered in the case; the magnitude of the crime as well as the criminal antecedents of the applicants, none of the applicant is entitled for bail.

7. The involvement of the applicants in this crime is mainly based on their own statements and the statements of the co-accused persons against each-other. However, all the said statements without recovery of the contraband substance were made before the police. Therefore, the same is not an admissible evidence.

8. As submitted by the the learned APP, mobile phone number of A12–Salim Dola was found in the mobile phone of A2. However, no material is pointed out to *prima facie* hold that the said mobile phone number is indeed belonging to A12. The learned APP has pointed that A2 has 16 criminal antecedents of bodily offences. But, therein A2 is on bail. Present case is the only case against A2 under the NDPS Act. As alleged, there were telephonic calls between A3 and A2. However, no CDR report is produced to substantiate the said fact.

9. The learned APP has submitted that A3 had named the A4 as supplier of the drugs to him. However, Mr. Lalla, the learned

counsel for A4 has submitted there were only four Whatsapp calls between A3 and A4. There is no proximity between the alleged phone calls and the seizure of the contraband from A1. Therefore, how mere exchange of the said phone calls would serve as an incriminating fact, is a question of trial. There is one criminal antecedent against A4 of possessing 34 grams of Mephedrone. Therein he is on bail.

10. Mr. Sayed, the learned Advocate for A8 submitted that, as alleged, photographs of the factory of A6, where he used to manufacture the contraband were found in the mobile phone seized from the possession of A8 as per the mobile extraction report dated 16th June 2025. However, it is a matter of record that said mobile phone of A8 was allegedly seized from his possession at the time of his arrest on 11th June 2025 and, it is not explained to where that mobile phone was kept after its seizure until it was examined for the purpose of extracting its contents on 16th June, 2025. Therefore, whether the said photos were taken by A8 before his arrest or not and whether said photos were of the factory in question or not, are the questions which are required to be examined on the basis of merits of the case. Except this, there is no other evidence against A8 indicating his complicity in this crime. The applicant has no antecedents.

11. Mr. Satre, the learned Advocate for A9 submitted that, as alleged, A7 named A9 as the person, who was dealing with him for the sale and purchase of the drugs. However, there is no recovery of any contraband from A9. Although, a mobile phone is seized from the possession of A9, no CDR is produced on record to indicate that there were telephonic contacts between A9 and A7. The case against A9 is identical to the case against A11, who is granted bail. There is

one criminal antecedent against A9 for the possession of 22 grams Mephedrone. Therein, he is on bail.

12. Ms.Palanpurwala, the learned Advocate for A10 submitted that, as alleged, A7 has named the A10 referring him as Nanu. However, there is no evidence that A10 is known as Nanu amongst the accused persons. No mobile phone is recovered from A10. There is no evidence showing that the mobile number which A10 used to operate, had contact with A5. As alleged, 112 phone calls were exchanged between A5 and A7, but, it is not countenanced by producing relevant CDR. Consequently, the recovery of 6.5 Kg. Of the contraband from A5 may not be an incriminating circumstance against A10. Therefore, the complicity of A10 in this crime is the subject matter of the trial.

13. In view thereof and, since there is no recovery of the contraband from the possession of the applicants, the rigours of Section 37 NDPS Act will not be applicable against them only on the strength of the recovery of the contraband from the other accused persons.

14. Taking into consideration the facts and circumstances of the case thus, in my view, the applicants may be released on bail, but on stringent conditions.

15. Hence, following Order:-

(i) Applicants – Shiva Hiralal Gupta, Shahnawaz Abid Chinoy, Mohammad Akram Surti, Mohammad Hanif Mohammad Yaseen Shaikh & Nahendra Mahendra Makhwana shall be released on bail in connection with Cr.No.159 of 2025 registered with R.C.F. Police Station, Mumbai, on their furnishing P.R. Bond in the sum of

Rs.1,00,000/- each with one or two sureties in the like amount.

(ii) The applicants shall regularly attend the proceedings before the jurisdictional Court unless exempted by the said Court, for the reasons to be recorded in writing.

(iii) The applicants shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witness to prevent them from deposing against them.

(iv) The applicants shall not indulge in identical activities for which they have been arraigned in this case.

(v) The applicants shall not reside and enter in jurisdiction of Mumbai and Thane districts, till conclusion of the trial, except for attending in the cases pending against them before the trial Court including the present case.

As a compliance of this condition, the applicants shall inform the Investigating Officer the place outside jurisdiction of Mumbai and Thane districts where they would reside till the conclusion of the trial.

The Investigating Officer shall ascertain that said places are situated outside the jurisdiction of Mumbai and Thane districts. Accordingly, the Investigating Officer shall submit his report before the trial Court.

The applicants shall mark their attendance at the local police station on 1st day of month in every two months, between 11.00 a.m. to 1.00 p.m.

(vi) On being released from jail, the applicants shall furnish their contact numbers and residential address to the Investigation Officer and shall keep him updated, in case there is any change.

(vii) In case of breach of any of the aforesaid conditions, the Respondent-RCF Police Station shall be at liberty to apply for cancellation of bail before the trial Court.

(viii) It is clarified that any observation made in the present Order are for the purpose of deciding the present Bail applications and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

16. Applications stand disposed of in the aforesaid terms.

(SHYAM C. CHANDAK, J.)