IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.811 OF 2025

Pawan Sushil Za ...Applicant
Versus
State of Maharashtra ...Respondent

Ms. Nargis Khan, *for the Applicant.*
Ms. Anamika Malhotra, *APP for the Respondent - State.*
ASI – Baban Bande, CID unit - 4 Ulhasnagar, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 24TH DECEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 489 of 2023 dated 14th September, 2023 registered with the Ulhasnagar Police Station, for the offences punishable under Sections 8(c) and 22(B) of the Narcotic Drug and Psychotropic Substances Act, 1985 (for short 'NDPS' Act).

2. The facts of the case, in brief, are that on information received by the police, the Applicant was found

lurking in suspicious circumstances. After complying with mandatory requirements of NDPS Act, his search was conducted and from right pocket of his pants 40 grams of Mephedrone was recovered. On further investigation and interrogation he revealed that he had also concealed some more quantity of contraband in a particular premises. In pursuance of said disclosure 50.60 grams of Mephedrone was recovered from the said premises. The Applicant was arrested pursuant to the registration of the FIR.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Kalyan, however, by order dated 11th March, 2024, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

4. Ms. Nargis Khan, learned counsel for the Applicant, submits that the Applicant is in custody since 14th September, 2023 and till date charge is not framed. She submits that from his person only 40 grams of Mephedrone

was recovered, which is a non-commercial quantity. She submits that his search was carried out by an unauthorised officer, who was not competent to carry out the said search. She further submits that the Applicant is only 19 years of age and hence, she prays that the Applicant be released on bail.

5. Ms. Anamika Malhotra, learned APP representing the State, on the other hand, contests the Bail Application. She submits that in addition to 40 grams of Mephedrone recovered from his person, another quantity of 50.60 grams was recovered in pursuance of a disclosure statement made by him. Hence, total quantity of 90.60 grams of Mephedrone, which is a commercial quantity, was recovered from the Applicant. She thus, submits that rigors of Section 37 of the NDPS Act are not fulfilled. Hence, she prays that the Application be rejected.

6. I have heard learned counsel for the respective parties and perused the record with their assistance.

7. Admittedly, the Applicant is in custody since 14th September, 2023, and till date charge is not framed. The Applicant is a young boy aged 19 years and it is not desirable that he remains in custody in the company of hardened criminals.

8. The Supreme Court in a decision in the case of ***Ankur Chaudhary v. State of Madhya Pradesh***[1] has held that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.

9. Considering that the Applicant has suffered incarceration of two and half years without there being charges framed, the trial being unlikely to conclude in the

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1 SLP (Crl.) 4648/2024 decided on 28th May 2024

near foreseeable future, I am inclined to enlarge the Applicant on bail and it is ordered as under:-

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iii) The Applicant shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m., till the charges are framed;

iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

v) The Applicant shall not leave India, without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

10. Application is allowed in the above terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)