

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3129 OF 2024

Javed @ Bali Nazir Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Ms Sartaj Shaikh, *with Mushtaq Shaikh & Abdul Wahab Shaikh, for the Applicant.*

Ms Poonam P Bhosale, *APP for the Respondent-State.*

Mr Abhijit Ahir Rao, *PI attached to Anti Narcotics Cell, Ghatkopar, present.*

CORAM Dr. Neela Gokhale, J.

DATED: 7th October 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 71 of 2023 dated 5th August 2023 registered with ANC, Ghatkopar Unit, Mumbai, Maharashtra for the offences punishable under Sections 8(c), 22(c), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act", for short).

2. The case of the prosecution in brief is that on 4th August

2023 when the police officials were on patrolling duty, they found two persons namely, the Applicant as well as co-accused- Subhan Sikandar Sayyad standing near the electric pole no. MHR 41, near footpath, near Nariyalwadi Qabrastan, in front of Sitafalwadi entrance arch, Dr. Mascarenhas Road, Sitafalwadi Naka, Mazgaon, Mumbai. On search of the said persons, both were found in possession of 60 grams of Mephedrone ('MD') each. The present Applicant possessed 2 pouches; one having 20 gms of MD and the other having 40 gms of MD. Together 120 grams, being of a commercial quantity, the Applicant and the co-accused were arrested and charged with the said offences under the NDPS Act. Accordingly, the present FIR was registered. The Applicant filed an Application before the NDPS Special Court, City Civil & Sessions Court, Mumbai. However, by order dated 10th April 2024, the Bail Application was rejected, hence, the Applicant is before this Court seeking the reliefs as prayed.

3. Ms. Sartaj Shaikh, learned counsel appearing for the Applicant, submits that the Applicant is arrested on 4th August

2023 and till date, charges are not framed. He submits that the said quantity of substance was found in plastic pouches and it is quite possible that the weight of the plastic pouches are added to the weight of the substance. Hence, he prays that the Applicant be released on bail.

4. Ms. Poonam Bhosale, learned APP representing the State, on the other hand, states that this is the commercial quantity that is recovered from the Applicant. The CA report is also positive and in the circumstances, rigors of Section 37 of the NDPS Act can be invoked. Ms. Bhosale submits that there are 6 antecedents against the Applicant. However, Ms. Shaikh submits that the antecedents are related to consumption. Ms. Bhosale, learned APP, thus prays that the Application be rejected.

5. I have heard learned counsel for the parties and perused the record with their assistance. Admittedly, quantity of 60 grams of Mephedrone is recovered from the Applicant, however, in view of the observations of the Apex Court in SLP (Crl.) No. 7284 of 2025 in **Abuzar Shakeel Khan Vs. The State**

of Maharashtra dated 22nd August 2025, where the Apex Court has observed that if the weight of the packing is excluded, the contraband so recovered would be of intermediate quantity and further taking into account that the accused has no criminal antecedents, having suffered over one year and nine months of incarceration pending trial, is entitled to be released on bail. In the circumstances, I am of the view that since even the charges are not yet framed till date and the Applicant has already suffered more than 2 years of incarceration, it is unlikely that trial will conclude in the near future. In these circumstances, I am inclined to grant bail to the Applicant 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 is permitted to furnish cash bail surety in the sum of Rs. 50,000/- in lieu of surety for four weeks.

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

iv) Applicant shall also attend the concerned Police Station every day between 11:00 a.m. to 02:00 p.m. till the charges are framed;

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

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

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

viii) The Applicant shall inform his latest place of residence and mobile 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 concerned Police Station;

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

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

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

7. 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)

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signed by
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