

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4767 OF 2024**

Asif Gulab Khan ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Anil G Lalla, with *Yash Pulekar*, for the Applicant.
Mr Yogesh Y Dabke, APP for the State-Respondent.
API – R. V. Londhe, ANC Ghatkopar Crime Branch, Mumbai, is
present.

CORAM Dr. Neela Gokhale, J.
DATED: 30th September 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 104 of 2023 registered with the ANC, Ghatkopar Unit, Mumbai under the provisions of Sections 8(c), 22(c) and 29 of the NDPS Act, 1985.

2. The case of the prosecution is that while on patrolling duty, the police officials found the three accused lurking suspiciously on a motorcycle near BMC waterline, Peru Baug, Powai, Mumbai. After complying the necessary requirements prescribed under the NDPS Act, the accused were searched.

The present Applicant was found to be in possession of 75 grams of Mephedrone (MD) in a plastic zip lock pouch. The recovery was also made from the accused Nos. 1 and 3 to the extent of 20 and 75 grams of MD respectively. Accordingly, the FIR came to be registered.

3. The accused No.1 from whom 20 grams of MD was recovered, is enlarged on bail by the Trial Court. There are two other accused, who were arrested on the basis of the statements made by the present Applicant. However, they too are enlarged on bail by orders of the Trial Court. The Applicant made a bail application before the Special Court, NDPS Greater Bombay, but by order dated 3rd February 2025, the bail application was rejected. Hence, he has filed the present bail application for the relief as prayed.

4. Mr. Anil Lalla, learned Counsel for the Applicant, submits that the Applicant was arrested on 30th December 2023 and till date, charges are not framed. He further submits that only 75 grams of MD were recovered from the Applicant,

while the commercial quantity is above 50 grams. He also submits that the weight taken included the plastic pouch and it is possible that the weight of the pouch was added to the powder. He submits that the Applicant is a mere 22 years old boy having no antecedents. He also placed reliance on an order dated 22nd August 2025, passed by the Supreme Court in the case of *Abuzar Shakil Khan Vs. State of Maharashtra*¹.

5. Per contra, Mr Yogesh Dabke, learned APP, submits that the recovery of 75 grams of MD essentially makes it a commercial quantity and the rigors of Section 37 of the NDPS Act will apply. Since the recovery was made from the person of the Applicant, there is no question of presuming that the Applicant has not committed the said offense. In these circumstances, he submits that the bail application be rejected.

6. I have heard both the Counsel and perused the record with their assistance.

¹ SLP (Cri) No. 7284 of 2025

7. At the outset, Mr. Anil Lalla, learned counsel for the Applicant, placed on record an order dated 29th September 2025 passed by this Court in the matter of co-accused vide which co-accused was granted bail. He seeks parity with the said co-accused.

8. Admittedly, the present Applicant is also in custody from 30th December 2023. He is a young boy of 22 years and has no antecedents. It is not desirable that he should continue to remain incarcerated with hardened criminals for a such long period of time. Even charges are not framed till date and on the principle of parity, I am inclined to enlarge the present 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.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the

like amount of Rs.25,000/- within a period of four weeks after his release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;

iii) The Applicant shall report to the office of the Anti Narcotics Cell, Ghatkopar Unit, on first Monday of every month between 10:00 a.m. and 12.00 noon, till framing of the charges;

iv) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the Investigating Officer;

vi) The Applicant shall not leave India, without 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.

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

10. 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
SHAMBHAVI
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SHIVGAN
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