

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4941 OF 2024**

Taufiq Shamshool Haque Ahmed

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Kamlesh Mahadev Satre, *for the Applicant.*

Ms. Megha S. Bajoria, *APP for the Respondent-State.*

Mr. Borse, *PSI attached to Khar Police Station, present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 03RD DECEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No.0865 of 2023 dated 25th October 2023 registered with the Khar Police Station, Brihanmumbai City for the offences punishable under Sections 8(c), 20(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). There are in all 4 accused persons in the crime. The Applicant is Accused No.1

and Accused Nos.2 to 4 are already enlarged on bail as there was no recovery from the said Accused.

2. The facts of the case, in brief, are that:-

2.1 On 25th October 2023, the Police received secret information that two persons, dealing with the contraband, are likely to come near Saraswat Bank, Dr. Babasaheb Ambedkar Marg, Khar (West), Mumbai. Hence, the Police proceeded towards the said location, where they found that the Applicant and Accused No.2 were lurking in suspicious circumstances. The Police stopped them and made inquiries. The Applicant and the co-accused tried to run away hence, they were apprehended. After following due process under the NDPS Act, they were searched. Nothing was recovered from the co-accused. However, the Applicant was found to be carrying in his right hand, one plastic carry bag containing some substance. Then, the said substance was examined and it was found to be *Charas*. The weight of the *Charas* along with the plastic carry bag was found to be 1 kg. 7 gms. The

Applicant and the co-accused were thus, arrested pursuant to the FIR registered on 25th October 2023.

3. The Applicant made an application seeking bail before the Special Judge (NDPS), Greater Bombay, however, by order dated 7th October 2024, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Kamlesh Satre, learned counsel appearing for the Applicant, essentially submits that the weight of *Charas* recovered from the Applicant was taken along with the plastic carry bag and hence, the weight was found to be 1 kg. 7 gms.; the commercial quantity of *Charas* is 1 kg. and the plastic bag in which the *Charas* was stored, weighed about 7 gms. He points to the panchanama, which records the aforesaid. He further submits that there are no antecedents in respect of the Applicant and all other accused in the crime are already enlarged on bail. He also submits that the Applicant is arrested on 25th October 2023 and as such, has suffered incarceration for more than 2 years. He additionally submits

that till date, charges are not framed. In these circumstances, he prays that the Applicant be released on bail.

5. Per contra, Ms. Megha Bajoria, learned APP representing the State in the matter, submits that 1 kg. is the commercial quantity of *Charas* and more than that quantity has been recovered from the Applicant. She further submits that there is no question of parity between the co-accused and the Applicant as nothing was recovered from the co-accused. Additionally, she submits that all compliances under the NDPS Act are made and hence, the Bail Application be rejected.

6. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. The basis of the argument of Mr. Satre, learned counsel appearing for the Applicant, is essentially that weight of the *Charas* is taken along with the plastic carry bag. He has also tendered order dated 10th March 2023 passed by this Court in Criminal Bail Application No.2046 of 2022 wherein this Court

has observed that weight of the plastic bag ought to have been excluded. In that case, recovery was 1 kg. and 10 gms. of *Charas* and the Court observed that weight of the plastic bag is likely to be 10 gms.

8. Be that as it may, the Applicant has suffered incarceration for more than 2 years and till date, charges are not framed. Admittedly, the Applicant has no antecedents. Since the quantity of *Charas* is likely to be within the intermediate quantity, rigors of Section 37 of the NDPS Act, may not apply to the present case.

9. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly 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 on first Saturday between 11:00 a.m. to 02:00 p.m.;

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)

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