

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

Bail Application No.5476 of 2024

Rahul Ashok Brahmane
Age: 22 yrs, Occ: Labour,
R/o Bajrang Wadi,near Mahadev
Temple Mumbainaka, Nashik
(at present in Nashik Road
Central prison)

... Applicant.

Vs.

The State of Maharashtra
(Mumbai Naka Police Station)

... Respondent.

Mr Mihir Kasliwal i/by Rahul Kasliwal for the applicant.
Mr SM Mangaonkar, APP for the respondent / State.
API Vishal Patil, NDPS Cell, Nashik city.

Coram : R.N.Laddha, J.
Date : 10 September 2025.

P.C. :

Heard Mr Mihir Kasliwal, learned Counsel appearing on behalf of the applicant and Mr SM Mangaonkar, learned Additional Public Prosecutor representing the respondent/ State.

2. The applicant in the present case is seeking bail in connection with CR No.236 of 2024, registered at

Mumbai-Naka Police Station, Nashik city, for the offences punishable under Sections 8(c), 22(b) and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985 ('NDPS Act').

3. It is the allegation of the prosecution that on 16 August 2024 at about 13:25 hrs., near Nasardi River on Nashik-Pune Road, the applicant was found in possession of 19 gms of Mephedrone, valued at approximately Rs.95,000/-, intended for sale.

4. The learned Counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present crime. Save and except for the vague assertion that the applicant was in possession of 19 gms of Mephedrone, the charge sheet does not disclose any other substantive or incriminating material against him.

5. The learned Counsel further submits that the mandatory procedural safeguards contemplated under Sections 42(1) and (2) of the NDPS Act have not been complied with. Additionally, the mandatory requirements of Section 50 of the Act have not been observed, rendering the

alleged search and seizure illegal. The alleged contraband is not of commercial quantity. Even otherwise, the weight of 19 gms has been stated to include the plastic pouch/container, which has not been separately accounted for in the charge sheet. The inventory prepared under Section 52(A) of the Act also reflects a discrepancy in the weight of the seized substance, which casts serious doubt on the integrity of the seizure. Furthermore, 19 gms of Mephedrone falls within the category of intermediate quantity; hence, the rigors of Section 37 of the NDPS Act are not attracted. All witnesses cited in the matter are police personnel, leaving no scope for apprehension that the applicant could exert influence or create pressure on them. Further, the alleged seizure was made on 16 August 2024, whereas the seized material was produced before the Court after ten days, which further raises questions on the sanctity of the procedure followed.

6. The learned Counsel submits that the applicant is a young boy aged about 22 yrs who has been languishing in jail for more than one year. The applicant has roots in society, poses no flight risk, and undertakes to furnish

sureties and comply with any conditions imposed by this Court. The charge sheet has already been filed, and no other offence under the NDPS Act is registered against him. Moreover, the co-accused has already been granted bail.

7. On the other hand, the learned APP, submits that the applicant was indeed found in possession of 19 gms of Mephedrone and that he was in contact with a co-accused who is yet to be arrested. The offence, being one under the NDPS Act, is a serious offence against the society at large.

8. I have considered the submissions of both sides and perused the case papers. The record shows that the applicant was allegedly found in possession of 19 gms of Mephedrone. As per the Notification issued under the NDPS Act, the said quantity falls within the category of intermediate quantity. Therefore, the stringent provisions of Section 37 of the NDPS Act, which place restrictions on the grant of bail in cases involving commercial quantity are *prima facie* not attracted to the present case. The applicant has been in custody since 16 August 2024 i.e. more than one year. The charge sheet has already been filed. Thus, the investigation is complete, and the continued custody of the

applicant is not necessary for the purpose of investigation. The trial is yet to commence and is likely to take considerable time to conclude, given the heavy pendency of the cases. The learned Counsel for the applicant has pointed out certain lapses in compliance with mandatory provisions under Sections 42 and 50 of the NDPS Act. It also appears that there are discrepancies in the statement of the witnesses and in the weight of the contraband as recorded in the panchnama and the inventory prepared under Section 52(A), which cannot be brushed aside at this stage.

9. The applicant has no criminal antecedents under the NDPS Act. He is a young boy aged about 22 years and has roots in society. There is nothing on record to indicate that he is likely to abscond if released on bail. The possibility of tampering with evidence or influencing witnesses is also minimal, as most of the witnesses are police personnel. It is also relevant that the co-accused has already been granted bail. The principle of parity would therefore also enure to the benefit of the present applicant.

10. Having regard to the above factors, namely, the contraband being intermediate quantity, the applicant's custody for over one year, the filing of charge sheet, absence of prior antecedents of similar nature, and parity with co-accused, I am of the opinion that the applicant has made out a case for grant of bail. Appropriate conditions can be imposed to ensure his presence and to safeguard the prosecution case. Hence, the following order :

Order

(i) The applicant shall be released on bail, in CR No. 236 of 2024, registered at Mumbai-Naka Police Station, Nashik city, upon furnishing a Personal Bond of Rs.50,000/- and one surety in the like amount to the satisfaction of the learned trial Court.

(ii) The applicant shall not tamper with the prosecution evidence or attempt to contact any witnesses.

(iii) The applicant shall furnish his residential address and contact details to

the investigating officer.

(iv) The applicant shall regularly attend the trial proceedings and cooperate with the trial Court for the expeditious disposal of the case.

(v) Any breach of the above conditions shall entail cancellation of bail.

11. The application stands disposed of accordingly.

[R. N. Laddha, J.]