



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.49 OF 2025**

Priyanka Ashok Karkaur	...	Applicant
versus		
State of Maharashtra	...	Respondent

Mr. Taraq Sayed with Ms. Ashwini Acharii with Mr. Anish Pereira, for Applicant.
Mr. P.P.Devkar, APP for State.
PSI Sandip Rahane, DCB, CID Unit 6, Chembur Mumbai present.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R. No.172 of 2023 registered with Navghar Police Station (DCB CID Unit VI, Mumbai, CR No.56 of 2023), for the offences punishable under Sections 420, 465, 468 and 471 of the Indian Penal Code and Sections 20, 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act, 1985"), has preferred this application to enlarge her on bail.
3. The gravamen of indictment against the applicant and the co-accused is that :
 - (i) On 15 August 2023, specific information was received at Anti-Narcotic Cell (ANC), Mumbai that Sahil Ramzan Ali Khan @ Massa (A1), Sarfaraz Shabbirali Khan (A7) and Ali Javed Jafar Mirza (A12) were indulging in

trafficking in drugs in huge quantity through their associates Shamsuddin Shah (A3), Imran Pathan (A4), Mohd. Tausif Shaukat Ali Mansuri (A5), Mohd. Ismail Salim Siddhique (A6), and others, and, on that day, between 11.30 p.m. to 12.00 midnight, they were to arrive in one blue Ertiga Car bearing No. MH-04/KF-1514 and another Creta Car bearing No. MH-04/GZ-2772 to sell mephedrone near Anand Nagar Toll Naka, Mulund, Mumbai. A surveillance was conducted.

(ii) At 12.05 a.m. on 16th August 2023, as informed, a blue Ertiga Car bearing No. MH-04/KF-1514, came on the southern flank of Thane Mumbai Road. The car was intercepted. Mohd. Ajmal Kasam Shaikh (A2), Sahil Ramzan Ali Khan (A1), Mohd. Tausif Shaukat Ali Mansuri (A5), Mohd. Ismail Salim Siddiqui (A6), and Imran Pathan (A4) alighted from the said car. They were accosted.

(iii) In the presence of the panch witnesses, from the possession of Sahil Khan (A1), 62 gms. of mephedrone; Mohd. Ajmal Kasam Shaikh (A2), 54 gms. of mephedrone; Shamsuddin Shah (A3), 31 gms. of *charas*; Mohd. Tausif Shaukat Ali Mansuri (A5) 14 gms. of mephedrone; Mohd. Ismail Siddiqui (A6), 18 gms. mephedrone and Imran Pathan (A4), 20 gms. of mephedrone were recovered.

(iv) Creta Car bearing No. MH-04/GZ-2772 was also intercepted. Sarfaraz Khan (A7) and Priyanka Karkour (A9) – the Applicant, Mohd. Shakil Khan and

Bambaiya Hussain alighted from the said car. In the search of Sarfaraz Khan (A7), 58 gms. mephedrone and Priyanka (A9) 14 gms. mephedrone was recovered. Contraband articles were seized.

4. At the outset, Mr. Sayed, learned Counsel for the Applicant submitted that the co-accused Sarfaraz Khan has been enlarged on bail by an order dated 20 December 2024. Likewise, other co-accused namely, Mohd. Ajmal Kasam Shaikh (A2), Mohd. Ismail Siddhiqui (A6) and Shamshuddin Shah (A3) have also been enlarged on bail by this Court. The learned Special Judge has also released co-accused Ali Javed Jafar (A12) and Mohammed Tausif Mansuri (A5) by orders dated 20 January 2025. Therefore, the applicant is entitled to be enlarged on bail on the ground of parity.

5. Mr. Sayed further submitted that, at any rate, the CA report revealed that the aggregate quantity of the substance found in possession of all the accused did not exceed the commercial quantity. The applicant was allegedly found in possession of 14 gms of Charas, which is a small quantity.

6. Learned APP resisted the application for bail. It was submitted that the applicant was involved in the trafficking of drugs in large scale as a huge sum of Rs.17,06,250/- was recovered from the house of the applicant. Therefore, in addition to the recovery of the contraband substance, the complicity of the applicant is borne out by the recovery of huge cash amount.

7. Mr. Sayed countered by canvassing a submission that there is no

material to show that the said house was in the occupation of the applicant, or for that matter, she was the sole occupant.

8. Evidently, the applicant was allegedly intercepted along with Sarfaraz Khan (A7) from whose possession 58 gms of Ketamine was recovered. While releasing Sarfaraz Khan (A7), this Court had observed, inter alia, as under :

“10. This Court must confess that when the bail applications of Kaynaat Khan (A10) and Imran Pathan (A4) were rejected, the prosecution proceeded on the premise that the substance found in possession of the accused was primarily mephedrone and charas. Thus, in the order dated 25th June, 2024 in the case of Imran Pathan (A4) in BA/1100/2024, the prayer for bail was negated observing *inter alia* as under :

“13. As noted above, the material on record indicates that varying quantity of contraband substance were recovered from each of the accused, who were apprehended. Sahil (A1) was found in possession of 62 gms, Mohd. Ajmal Kasam Shaikh, 54 gms of MD, and rest of the accused were also found in possession of contraband substance, though it did not exceed the commercial quantity. The prosecution alleges, over 350 gms of MD/ketamine/charas was recovered from the applicant and the co-accused.

14. In the aforesaid scenario, I find substance in the submission of the learned APP that the entirety of the circumstances is required to be looked into and not only the quantity of the contraband found in possession of the applicant. There was specific information. Cars were intercepted based on such specific information. The applicant was at the wheel of the car. The applicant and co-accused were all found travelling together. In all, 350 gms and above contraband substance was recovered from the applicant and co-accused. In such

circumstance, an inference of the applicant being privy to the crime can be legitimately drawn."

11. The situation which now obtains is that, apart from Shamsuddin Shah (A3), from whose possession 31 gm. *Charas* was allegedly recovered, from all the other occupants of both the vehicles Ketamine was allegedly recovered. As noted above, the recovery of 6.16 gms. Mephedrone from Sayed Shaikh (A11) was subsequent and pursuant to the disclosure made by Kaynaat Khan (A10).

12. In my considered view, the situation which has *now* emerged is of material significance. Under Entry 238E of the Notification, the small quantity of Ketamine is 10 gm. and commercial quantity is 500 gms. The small quantity of *charas* is 100 gms and commercial quantity is 1 kg. Resultantly, even if the cumulative quantity of the contraband substance found in possession of all the occupants of both vehicles, discounting the submissions on behalf of the applicants that there is no material to establish the nexus between the occupants of both the vehicles and to rope them in as confederates in the conspiracy, the quantity of contraband substance would fall within the range of intermediate quantity.

13. In this view of the matter, I find substance in the submissions on behalf of the applicants that *prima facie* the interdict contained in Section 37 of the NDPS Act may not operate. In view of the aforesaid fact-situation, I do not deem it necessary to delve into other submissions canvassed on behalf of the applicants regarding the non-compliance of the statutory provisions. Suffice to note that there were no financial transactions between the applicants and co-accused, especially Sahil Khan (A1), the alleged kingpin, and Kaynaat Khan (A10).

14. It is true, both the applicants have antecedents. The applicants have been enlarged on bail in those cases. However, since the Court finds the interdict contained in

Section 37 of the NDPS Act, 1985 may not operate, the submission on behalf of the applicants that the antecedents of the applicants may not thus disentitle them to get the relief of bail appears to carry substance.

15. In the light of the situation which has emerged consequent to the substance having been found in possession of the applicants and co-accused being Ketamine, their pre-trial detention becomes even more tenuous. The applicants are in custody since August, 2023. Having regard to the number of accused, the number of witnesses the prosecution may be required to examine and the large pendency of cases, it is extremely unlikely that the trial can be concluded within a reasonable period. I am, therefore, inclined to exercise the discretion in favour of the applicants."

9. The aforesaid reasons which weighed with this Court in releasing co-accused and co-occupant of the applicant on bail, govern the claim of the applicant as well. Whether the recovery of cash amount of Rs.17,06,250/- from the house of the applicant can be exclusively fastened to the applicant, would be a matter for trial.

10. In any event, most of the co-accused who were found in possession of the intermediate quantity of the contraband substance have also been enlarged on bail. The contraband substance found in possession of the applicant was of small quantity.

11. In the aforesaid view of the matter, I am persuaded to exercise discretion in favour of the applicant as, prima facie, the interdict contained in

Section 37(1)(b) of the Act, 1985, does not come into play.

ORDER

(i) Application stands allowed.

(ii) The applicant – Priyanka Ashok Karkaur be released on bail in C.R. No.172 of 2023 registered with Navghar Police Station (DCB CID Unit VI, Mumbai, CR No.56 of 2023) on furnishing a P. R. Bond of Rs.1,00,000/-, each, with one or more sureties in the like amount to the satisfaction of the learned Special Judge.

(iii) The applicant shall mark her presence at DCB CID Unit VI, Mumbai, on the first Monday of every month between 10.00 am. to 12.00 noon for the period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish her contact number and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall not indulge in identical activities for which she has been arraigned in this case.

(vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

(N.J.JAMADAR, J.)