

AGK

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

BAIL APPLICATION NO.231 OF 2025

Akash Anil Singh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Advait Tamhankar for the applicant.

Mrs. Rajashree V. Newton, APP for the respondent-State.

Ms. Poonam Yadav, APO, DCB, CID Unit-10, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 11, 2025

P.C.:

1. By the instant bail application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short), the applicant is seeking regular bail in connection with Crime Register No.28 of 2024 registered with DCB-CID Unit-X, Mumbai (Spl. LAC/C.R. No.397 of 2024) registered with shiwara Police Station, Mumbai for offences punishable under Sections 8(c) read with Section 22(c) and Section 29 of the Narcotic Drug and Psychotropic Substances Act, 1985 ("NDPS Act" for short).

2. The prosecution contends that, acting on a directive from a Superior Officer, the DCB-CID Unit went on a patrolling assignment on 28 March 2024. Their duty was to trace individuals involved in the sale and purchase of narcotic drugs. It is alleged

that while on patrolling duty, the officers were in possession of a seal used to authenticate the contraband. The team, as claimed by the prosecution, encountered the accused on Behram Baugh Link Road, near Jogeshwari, Mumbai – 10, at approximately 1.00 hours. The officers then apprehended the individuals and inquired about their details. This factual narrative forms the basis of the prosecution's case and must be weighed against the reliability of the police actions and the corresponding observations, as maintaining procedural integrity is critical in a fair adjudication process.

3. According to the allegations, a personal search conducted by PI Sutar led to the recovery of a transparent plastic pouch from the applicant. The contraband inside weighed 55 grams and was claimed to be Mephedrone. Additionally, during the search of the second accused (Accused No.2), 105 grams of a white powder, purported to also contain Mephedrone, was recovered. This material was duly documented under a panchanama. Following these seizures, both the applicant and Accused No.2 were arrested and have since been remanded into judicial custody. In preparing our judgment, a critical focus must be placed on ensuring that the search was conducted in accordance with legal norms and that the evidence was properly preserved, which in turn affects the credibility of the prosecution's case.

4. The learned Advocate representing the applicant has put forth that the measured weight of the contraband includes the weight of the zip-lock plastic bag. He argues that if the plastic bag is excluded, the remaining substance weighs less than the

threshold of commercial quantity (allegedly 50 grams). Moreover, it is pointed out that while the panchanama indicates the substance as a white-colored powder, the Chemical Analysis (CA) report describes it as a white crystalline powder. He also notes that the transparent bag containing the contraband was not forwarded for chemical analysis, whereas the zip-lock bag was. These discrepancies and lack of proper examination raise substantial doubts regarding the accuracy and consistency of the prosecution's evidence. In reasoning for this judgment, it is necessary to consider whether these procedural inconsistencies undermine the case against the applicant, thus potentially supporting the applicant's claim for bail.

5. In stark contrast, the learned APP has firmly opposed the bail application. He maintains that all mandatory procedures under Sections 42 and 50 of the NDPS Act have been strictly followed. It is contended that the entire 55 grams of Mephedrone was recovered directly from the applicant's possession. Furthermore, the contraband was securely stored in a godown in a sealed condition, produced before the Magistrate for inventory as such, and later forwarded to the Chemical Analysis (CA) in sealed condition. The APP argues that even if one were to deduct the weight of the plastic bag, the substance still exceeds the commercial quantity threshold. In addition, he submits that since Section 37 of the NDPS Act applies, it is legally proper to deny bail in such cases. In preparing this judgment, careful scrutiny must be given to the legality of each step taken during the seizure, the chain of custody of the evidence, and whether the procedural

requirements mandated by the NDPS Act were fully met, as these factors are central to determining whether the denial of bail is justified.

6. I have carefully considered the rival submissions advanced on behalf of the applicant and the prosecution. I have also perused the documents placed on record, including the FIR, panchnama, chemical analysis report, and the reply filed by the investigating officer.

7. The applicant is facing prosecution for serious offences punishable under Sections 8(c), 22(c), and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The contraband allegedly recovered from the possession of the applicant is 55 grams of Mephedrone, which, as per the notification issued under the NDPS Act, falls within the category of 'commercial quantity'.

8. It is now well-settled that once commercial quantity is involved, the rigours of Section 37 of the NDPS Act come into operation. As per Section 37(1)(b), no person accused of an offence involving commercial quantity shall be released on bail unless: The Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and That he is not likely to commit any offence while on bail.

9. In the present case, on perusal of the panchnama and recovery memo, it appears that the applicant was found in actual and conscious possession of a transparent plastic pouch containing 55 grams of Mephedrone. The seizure was effected on 28.03.2024 during patrolling duty conducted by DCB-CID Unit-X, and the

recovery was made by PI Sutar in the presence of panch witnesses.

10. The argument of the learned Advocate for the applicant that the weight of the plastic bag should be excluded from the total weight does not inspire confidence at this stage. The Chemical Analyzer's report confirms that the seized substance tested positive for Mephedrone, and even assuming a marginal deduction for the plastic bag, the remaining quantity is very close to, if not above, the commercial threshold. Such disputes regarding net weight are matters of trial, and cannot be the sole ground for granting bail where otherwise the quantity is around or above the commercial limit.

11. The second argument advanced by the applicant's counsel is that the panchanama refers to "white powder" whereas the chemical analysis report refers to "white crystalline powder." However, this discrepancy is not sufficient to create doubt about the genuineness of the seizure at this stage. Minor inconsistencies of such nature cannot override the scientific finding of the Forensic Science Laboratory, which categorically confirms the presence of Mephedrone in the recovered sample.

12. The investigating agency has also submitted that all procedural requirements under Sections 42, 50, and 52A of the NDPS Act have been duly complied with. The material seized was duly sealed, inventoried before the learned Magistrate, and thereafter sent for chemical analysis. These facts are corroborated by the prosecution documents and have not been substantially disputed.

13. Further, if the applicant is released on bail, there is a reasonable apprehension that he may tamper with the evidence or attempt to influence the witnesses. The offence involves an organised drug network, and the alleged role of the applicant in concert with accused No.2 indicates a possible larger conspiracy attracting Section 29 of the NDPS Act.

14. The NDPS Act is a special law enacted to curb the menace of drug trafficking and drug abuse. The Courts are expected to be extremely cautious while considering bail in such matters. The seriousness of the allegations, the nature of the substance seized, the statutory bar under Section 37, and the potential danger to society if such accused are released on bail, all weigh heavily against the applicant.

15. Thus, this Court is not satisfied that there are reasonable grounds to believe that the applicant is not guilty of the offence. Nor is this Court satisfied that he is not likely to commit such offence while on bail. As such, the twin conditions of Section 37 are not fulfilled.

16. In view of the above discussion, considering the gravity of the offence, the involvement of commercial quantity, the bar under Section 37 of the NDPS Act, and the stage of investigation, this Court is of the firm opinion that the applicant is not entitled to be released on bail at this stage.

17. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)