

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.282 OF 2025**

Mujibur Rehman Abdul Aziz Khan	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Ms. Zehra Charania, *with Ayaz Khan, Dilip Mishra and Mallika Sharma, for the Applicant.*
Mr. Yogesh Y. Dabke, *APP for the Respondent-State.*
Mr. Mahesh Anjanwad, *PSI attached to Shivajinagar Police Station, Mumbai, present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 04TH DECEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 944 of 2023 dated 28th October 2023 registered with the Shivaji Nagar Police Station, Brihanmumbai City for the offences punishable under Sections 8(c), 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). There are in all 3 accused; the Applicant is Accused No.2.

2. The case of the prosecution is that:-

2.1 On 27th October 2023, while the officials of Shivaji Nagar Police Station, Mumbai, were on patrolling duty, they found one person, i.e., Accused No.1 near a motor-cycle, lurking in suspicious circumstances. They also saw that there was a bag on the motor-cycle. They stopped Accused No.1 and made inquiries with him. However, he gave evasive answers. Therefore, after following due process prescribed under the NDPS Act, Accused No.1 was searched and 200 bottles of Codeine Phosphate cough syrup were recovered from him. At his behest, the Applicant was also arrested.

3. The Applicant made a disclosure statement on 28th October 2023 and showed his willingness to take the Police to the place where he had hidden the contraband. Accordingly, on 28th October 2023 at around 7.40 a.m., the Police went to the said location, which turned out to be a chemist shop. They took search of the store room of the said shop and recovered

1400 bottles of Codeine Phosphate cough syrup. The FIR was registered against the Applicant, as well.

4. The Applicant made an application seeking bail before the N.D.P.S. Special Judge, City Civil & Sessions Court, Greater Bombay, however, by order dated 10th January 2025, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

5. Ms. Zehra Charania, learned counsel appearing for the Applicant, has raised several objections; one of them is that the panchanama started at 7.40 am and ended at 10.30 am. However, the logbook, according to Ms. Charania, indicates that the vehicle has reached the Police Station at 10.00 am itself. Thus, her objection is that while the panchanama was still underway, the vehicle in which the Police had travelled to the spot of incident, could not have returned at 10.00 am. Another objection which she raises, pertains to the inventory panchanama. Inventory of the substance was taken on 12th March 2024. The statement of the carrier clearly reveals that

the sample of contraband was handed over to her on 12th March 2024 to carry the same to the Forensic Science Laboratory ('FSL'), however, the FSL has received the said sample only on 28th March 2024, i.e., after about 16 days. She submits that possibility of tampering cannot be ruled out and hence, she submits that there is reasonable ground to believe that the Applicant has not committed the said offence. She further submits that there are no antecedents against the Applicant and the Applicant is not likely to commit the said offence, if granted bail. Hence, she prays that bail be granted to the Applicant.

6. Mr. Yogesh Dabke learned APP representing the State in the matter, insofar as the first objection is concerned, submits that it is quite possible that the officials involved in the panchanama returned in another vehicle and that is not such a significant non-compliance on the basis of which the Applicant can be released on bail. As far as C.A. Report is concerned, although he has no answer in respect of the dates

on which the inventory panchanama was drawn and the contraband was ultimately delivered to the FSL for testing, he submits that the C.A. Report is received and the C.A. Report does not indicate any tampering. He thus, prays that the Bail Application be rejected.

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

8. Insofar as Ms. Charania's objection relating to the time of completion of panchanama and the return of vehicle as indicated in the logbook is concerned, I am of the view that this is the matter for determination by the Trial Court during the course of trial and may not be significant at this stage in order to ascertain justiciability of satisfaction of the twin conditions under Section 37 of the Act. The handwritten entry in the log book is also not so significant as to render a finding that the Applicant may not have committed the offence. However, what remains significant is, the dates on which the inventory is completed and the time gap when ultimately, the

carrier delivered the contraband to the FSL. There is no explanation forthcoming on the part of prosecution to explain the said delay and as to where the contraband was stored for 16 days. There are reasonable grounds to believe that the Applicant may not have committed the said offence. Considering that there are no antecedents against the Applicant, it is unlikely that he will repeat the said offence.

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 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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