

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 500 OF 2025**

Sara Ismail Adam	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Kiran Gogavale, for the Applicant.
Ms. Poonam P. Bhosale, for the Respondent.

CORAM DR. NEELA GOKHALE, J.
DATED: 12TH DECEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No. 258 of 2023 dated 02nd September, 2023 registered with the Vashi Police Station, Navi Mumbai for the offences punishable under Sections 8(c), 21(b), 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 3 and 4 of the Passport Act as well as Sections 14(A) and 14(B) and 14(C) of the Foreigners Act, 1946.

2. There are in all five accused. The present Applicant is the Accused No. 1. Admittedly, 117 grams of Cocaine was recovered from the possession of the Applicant herself. However, by order dated 07th April, 2025, this Court while hearing the present matter has specifically recorded that:

‘3.... It is seen that the prosecution officer has not followed the procedure under Section 50 of the NDPS Act and prima facie the Applicant made out a clear case for transgression of the provisions of Section 50 on the face of record and for grant of bail.

4. Learned APP shall take appropriate instructions on the aforesaid issue and apprise the Court on the next adjourned date’.

3. Today Ms. Poonam Bhosale, learned APP representing the State, has brought to my attention the letter given to the Applicant under Section 50 of the Act. By the said letter dated 01st September 2023, the Senior Inspector of Police has apprised the Applicant regarding her right under Section 50 of the Act to take her personal search, either in the presence of

the Magistrate or a Gazetted Officer. She was also apprised that if she demanded that the search be taken by the Magistrate or Gazetted Officer, the police shall make an arrangement accordingly. There is no acknowledgment or signature of the Applicant on the said notice. Neither is there any letter given by the Applicant to the police, giving her consent for the search to be undertaken by the police themselves.

4. Ms. Bhosale, at this juncture, states that the panchanama records clearly that the Applicant refused to sign the said letter and she refused to give any note in writing that she was ready and willing to be searched by the police.

5. In my view, the appropriate course for the police officers to take in these circumstances, was to take her before the Magistrate or the Gazetted Officer for the purpose of facilitating the said search. In the absence of any such search facilitated by the police, I am constrained to record that the compliance under Section 50 of the Act was not completed.

6. In these circumstances, although commercial quantity of Cocaine was recovered from the Applicant, her search pursuant to which the same was recovered being untenable, there is a reason to believe that the Applicant may not have committed the said offence.

7. There is an antecedent against the present Applicant pertaining to an NDPS case. However, in that case, the recovery from the Applicant was not of commercial quantity, the Applicant is a foreigner and she has also submitted her passport with the authorities. The Applicant's visa expired during the pendency of the present case.

8. 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 release of the Applicant shall be subject to production of valid passport and visa. Since passport and visa can be applied online, as informed by the learned Public Prosecutor, the Applicant will have to apply for the same from jail. The Respondent-State authorities shall provide assistance to the Applicant. But, it is made clear that without producing valid passport and visa, the Applicant shall not be released on bail.

iii) Upon producing such valid passport and visa, the Applicant shall place copies thereof before the Trial Court.

iv) The Applicant shall register herself on the basis of such valid passport and visa, with the Foreigners Regional Registration Office (FRRO) at Mumbai, within two weeks of her release.

v) The Applicant shall use SIM card for mobile phone that is obtained on the basis of such valid passport issued in his favour and she shall give the

details of such contact number before the Trial Court at the earliest.

vi) The Applicant shall file affidavit before the Trial Court within two weeks of her release on bail, stating the source of her funds and source of her income in this country, giving the details of legal channels including Bank accounts through which she would be operating her finances.

vii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

viii) The Applicant shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m.;

ix) The Applicant shall not leave India, without the permission of the Trial Court;

x) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

xi) The Applicant to co-operate with the conduct of the trial;

xii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. 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)