

AGK

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

BAIL APPLICATION NO.601 OF 2025

Jafar Husain @ Shabir AkramAli Khan ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Visshal Khetre for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-State.

Mr. Santosh Ghadge, PSI, ANC H.B.V.G., is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 11, 2025

P.C.:

1. By the present application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), the applicant is seeking regular bail in connection with Crime Register No.98 of 2024 registered with Naigaon Police Station for offences punishable under Sections 8(c), 20(b), 20(b)(ii), and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "NDPS Act").

2. As per the prosecution story, on 24th February 2023, the informant, who is a police constable attached to the Anti-Narcotics Cell of the Mira-Bhayandar-Vasai-Virar Police, was on patrol duty in a government vehicle bearing registration No. MH-04-LT-9759. The team was carrying all the required equipment for conducting a

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search and raid operation to apprehend persons involved in narcotic drug trafficking. While the team was passing through the Juhu Chandra road area in Naigaon, Senior Police Inspector Marathe noticed a group of persons behaving suspiciously—one carrying a gunny bag and others holding cloth and plastic bags.

3. The team immediately stopped the vehicle and apprehended the suspects. Thereafter, panch witnesses were called at the spot, and notices under Section 50 of the NDPS Act were served to the suspects as per law. Upon conducting a personal search, 2 kilograms and 37 grams of charas were found from accused No.1 – Neeraj Singh; 503 grams of charas from accused No.2 – Ashish Bhardwaj; 1 kilogram and 4 grams of charas from accused No.3 – Abhishek Anil Singh; and 1 kilogram and 513 grams of charas from accused No.4 – Satyendra alias Sony. All four quantities are of commercial category as defined under the NDPS Act.

4. During interrogation, all four accused gave statements naming accused No.5 as the person from whom they obtained the contraband. Further, it is alleged that accused No.5 disclosed that the present applicant (accused No.6) was the person who had supplied the drugs to him. Based on this disclosure, the applicant was arrested, and further investigation ensued.

5. Learned counsel appearing on behalf of the applicant submitted that the mobile phone and SIM card bearing number 8828001863, which was seized from the applicant, do not reflect any call record or communication between him and accused No.5. It is contended that the applicant had a monetary dispute with

accused No.5 regarding payment for vehicles and hence was in contact with him purely on that ground. It was argued that there is no direct evidence showing the involvement of the applicant in the actual delivery or supply of contraband and that he deserves to be released on bail.

6. On the other hand, learned APP vehemently opposed the bail application, submitting that the investigation has revealed serious material against the applicant. According to the APP, although the applicant has not disclosed the second mobile number, 8779070554, during his interrogation, the telecom operator has verified that this number was being used by the applicant. The call detail records (CDRs) show frequent contacts between this number and the number of accused No.5 during the relevant period when the transaction of contraband allegedly took place. In addition, the applicant has prior criminal antecedents of similar nature. The financial transactions between the applicant and accused No.5 further strengthen the prosecution's case that the applicant is not an innocent party but was actively involved as a supplier of commercial quantity of narcotic drugs. It is therefore prayed that the applicant is not entitled to the discretionary relief of bail.

7. This Court has given its anxious consideration to the rival submissions and has perused the record of the case, including the CDRs and the seizure panchnamas. From the quantity of contraband recovered from accused Nos.1 to 4, there is no manner of doubt that it falls under the category of commercial quantity, and thus the rigours of Section 37 of the NDPS Act get attracted. The disclosure by accused No.5 naming the applicant as the

supplier is supported by independent electronic evidence in the form of call records and mobile tower location data. More importantly, the fact that the applicant withheld his alternate number and that number was found to be actively used in communicating with accused No.5 during the relevant time raises a strong prima facie case of his involvement.

8. As held by the Hon'ble Supreme Court in *Union of India v. Ram Samujh*, (1999) 9 SCC 429 and reaffirmed in *State of Kerala v. Rajesh*, (2020) 12 SCC 122, the twin conditions laid down under Section 37 of the NDPS Act must be strictly satisfied before granting bail in cases involving commercial quantity of contraband. These two conditions are:

- (i) The Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence; and
- (ii) That the accused is not likely to commit any offence while on bail.

9. In the present case, the quantity of contraband recovered from accused Nos.1 to 4 is clearly of commercial nature. The statements of the co-accused, backed by supporting call detail records of the undisclosed mobile number used by the applicant, indicate his active role as a supplier of the contraband. The fact that the applicant deliberately did not disclose the second mobile number used by him and that number was traced to have multiple communications with accused No.5, who was found to be in possession of the contraband, strongly points to a conscious and

deliberate involvement in the illegal activity.

10. Further, the submission made by the applicant's counsel regarding monetary disputes with accused No.5 appears to be an afterthought and is not supported by any documentary proof. On the contrary, the financial dealings between the applicant and accused No.5, coupled with mobile call records, create a prima facie chain of circumstances linking the applicant to the offence under investigation.

11. The material collected so far in the course of investigation, in this Court's view, cannot be brushed aside at this stage. The applicant's role does not appear to be that of a mere peripheral or occasional contact; rather, he appears to be one of the key persons in the chain of supply. Moreover, the fact that the applicant has criminal antecedents of a similar nature also raises an apprehension of repetition of such offences, if released on bail.

12. At this stage, it cannot be said with reasonable assurance that the applicant is not guilty of the alleged offence. The nature and gravity of the offence, the volume of contraband involved, the electronic evidence suggesting his link, and the statutory embargo under Section 37 of the NDPS Act, when read together, clearly tilt the balance against the applicant. The Court also finds merit in the apprehension of the prosecution that if the applicant is released, there is a real possibility of him tampering with evidence, influencing witnesses, or absconding, thereby obstructing the course of justice.

13. In light of the above, this Court finds no justifiable ground to exercise its discretionary power to grant bail. The applicant has failed to meet the threshold requirements laid down under Section 37 of the NDPS Act. Hence, the application deserves to be rejected.

14. Hence, the Bail Application stands rejected.

(AMIT BORKAR, J.)