

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

BAIL APPLICATION NO. 679 OF 2025

Musa Sultan Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Mushtaq Shaikh i/by Mr. Abdul Wahab Shaikh, Advocate
for the Applicant.

Mrs. Gauri S. Rao, A.P.P. for the Respondent – State.

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CORAM	:	N. R. BORKAR, J.
DATE	:	02nd May, 2025.

P.C.:

1. This is an application for regular bail.
2. The applicant came to be arrested in Crime No.36 of 2022 registered at Panvel Taluka Police Station, District : Raigad, for the offences punishable under Sections 420, 465, 467, 468, 471 of the Indian Penal Code (for short 'IPC'), Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Sections 3(a), 6(a) of the Passport Act and Section 14(a) of the Foreigners Act.

3. On 18.02.2022, on the basis of secret information, applicant, who according to the prosecution is Bangladeshi citizen was apprehended and 530 small orange pills of Yaba Methamphetamine, narcotic pills, weighing 54.180 gms were found in his possession.

4. The learned counsel for the applicant has drawn my attention to the appraisal notice issued to the applicant under Section 50 of the NDPS Act. It is submitted that the Officer who conducted the search of the applicant, after disclosing that he is Gazetted Officer had asked the applicant whether he would like to be searched by any other Gazetted Officer or Magistrate. It is submitted that this Court and Hon'ble Supreme Court has held that such appraisal is contrary to Section 50 of the NDPS Act. In support of submission, the learned counsel for the applicant has relied upon the order passed by this Court dated 23.09.2019 in Bail Application No.541 of 2019.

5. On the other hand, the learned A.P.P. for the Respondent-State submits that the commercial quantity of contraband was found in possession of the present applicant.

It is submitted that the applicant is a citizen of Bangladesh and was staying in India on the basis of forged documents. It is thus submitted that considering the nature of crime, the applicant may not be released on bail.

6. This Court by order dated 23.09.2019 in Criminal Bail Application No.541 of 2019 has held that the moment the Police Officer informs the accused that he is a Gazetted Officer and then apprises the accused of right to be searched by other Gazetted Officer or Magistrate then such appraisal is contrary to Section 50(1) of the NDPS Act. Even otherwise the applicant is in jail for three years and there are no other criminal antecedents against him. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail.

ORDER

- (i) Criminal Bail Application is allowed;
- (ii) The applicant shall be released on bail in connection with CR No.36 of 2022, registered at Panvel Taluka Police Station, on furnishing PR Bond of Rs.1 Lakh with two solvent sureties in the like amount to the satisfaction of the trial Court.

(iii) 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 APP, the applicant will have to apply for the same from jail. The respondent-State Authority 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.

(iv) Upon producing such valid passport and visa, the applicant shall place copies thereof before the trial Court.

(v) The applicant shall register himself on the basis of such valid passport and visa, with the concerned Foreigners Regional Registration Office (FRRO) within two weeks from his release.

(vi) The applicant shall use SIM Card for mobile phone i.e. obtained on the basis of such valid passport issued in his favour and he shall give the details of such contact number before the trial Court at the earliest.

(vii) The applicant shall inform the place of his residence to the trial Court with valid proof thereof and report any changes in the same immediately with appropriate proof each time before the trial Court. If the applicant fails to provide such details, he shall be kept in detention centre(s) established by the respondent-State.

(viii) The applicant shall file affidavit before the trial Court within two weeks of his release on bail, stating the

source of his funds and source of his income in this Country, giving the details of legal channels, including Bank accounts through which he would be operating his finances.

(ix) The applicant shall report to the Panvel Taluka Police Station every Sunday between 11:00 a.m. and 1:00 p.m., till the completion of trial.

(x) The applicant shall not indulge in any activity that would amount to tampering with evidence and influencing witnesses.

(xi) The applicant shall remain present before the trial Court on each and every date of the proceedings and he shall cooperate with the trial Court for the expeditious disposal of the case.

(xii) The applicant shall produce a Certificate of assurance from Embassy/High Commission of the Country to which he belongs that he shall not leave the Country and that he shall appear before the Court as and when required.

7. Needless to say, the violation of any of the aforesaid conditions would make the applicant liable for cancellation of bail.

8. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant and

that the trial Court shall proceed with the matter without being influenced by the same.

9. The present bail application stands disposed of in the above terms.

(N. R. BORKAR, J.)