

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 852 of 2025**

Abdul Raees Abdul Hamid Shaikh	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr Kamlesh M Satre, *for the Applicant.*
Ms Poonam P Bhosale, *APP for the State-Respondent.*
Mr Gite, *PSI attached to Dharavi Police Station, present.*

CORAM Dr. Neela Gokhale, J.
DATED: 15th October 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 1075 of 2023 dated 29th December 2023 registered with the Dharavi Police Station, Brihanmumbai City for the offences punishable under Sections 8(c) and 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. The facts of the case, in brief, are that:-

2.1 The Applicant was found in possession of 42 bottles of Codeine Phosphate cough syrup of Phensirest Company, Plencedyn Company as well as Welcyrex Company. He was arrested on 29th December 2023 and after following the procedure under the NDPS Act, the FIR was registered.

3. The Applicant made a bail application before the learned NDPS Special Judge, City Civil & Sessions Court, Greater Bombay, however, by order dated 2nd January 2025, the same was rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Kamlesh Satre, learned counsel appearing for the Applicant, submits that although 42 bottles of Codeine Phosphate cough syrup were recovered from the Applicant, C.A. report is still awaited for almost 2 years. In these circumstances, the Applicant's fundamental right of liberty guaranteed under Article 21 of the Constitution of India is seriously violated. Admittedly, charges are not framed and he has suffered incarceration for as many as 2 years. In these

circumstances, Mr. Satre, prays that the Applicant be enlarged on bail.

5. Ms. Poonam Bhosale, learned APP representing the State, submits that 42 bottles of Codeine Phosphate cough syrup recovered from possession of the Applicant, constitute commercial quantity of the said drug. She further submits that this is a serious offence and C.A. report will be received soon. She thus, resists the Bail Application.

6. I have heard learned counsel for both the parties and perused the record with their assistance.

7. Having regard to the facts and circumstances of long incarceration of the Applicant without there being any real possibility of early completion of the trial, particularly having regard to the fact that C.A. report is not yet received from the laboratory for the past 2 years, I am inclined to accept the plea of the Applicant and enlarge him on bail. In a series of judgments, the Supreme Court has observed that long

incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India and as such, conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 may, in such circumstances, be considered.

8. In view of the foregoing, the Applicant is released on bail and it is 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 also attend the Police Station concerned once in a month on the first Saturday of every month between 11:00 a.m. to 02:00 p.m.;

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

iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the Police Station concerned, if any;

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 mobile 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 concerned Police Station;

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

ix) 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)

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