

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1154 OF 2025**

Junaid Nasim Gaur
Versus
State of Maharashtra

...Applicant

...Respondent

Mr Kamlesh Mahadev Satre, *with V. P. Chavan, for the Applicant.*
Ms Poonam P Bhosale, *APP for the Respondent-State.*
Mr Vijay Naik, *API attached to ANC Kandivali, Mumbai, present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 17TH OCTOBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No.09 of 2024 dated 8th February 2024 registered with the ANC, Kandivali Unit, Mumbai for the offences punishable under Sections 8(c), 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

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

2.1 The officers of the ANC, while on patrolling duty, on 7th February 2024, found two accused persons loitering in suspicious circumstances in the vicinity of Kherwadi. They were talking with each other and some exchange took place between them. The officers stopped them and pursuant to an enquiry, it was revealed that Accused No.1, Chand Ahmed Shaikh was found in possession of 50 gms of Heroin and the Applicant, who is Accused No.2, was found in possession of 300 gms of Heroin. After complying with provisions of the NPPS Act, the substance was seized. The Applicant was arrested pursuant to registration of FIR.

3. The Applicant made a bail application before the Special Judge (NDPS), City Civil & Sessions Court, Greater Bombay but by order dated 17th February 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 the Applicant is a young boy of 20 years. Although the commercial quantity of Heroin of 300 gms of Heroin was found in possession of the Applicant, he is in custody since 8th December, 2024. There was an exchange of the said substance between the accused *inter se*. He submits that Accused No.1 is enlarged on bail. Considering that the charges are not framed as yet, he submits that on the ground of long incarceration, the Applicant be enlarged on bail. He also submits that the Applicant has no antecedents.

5. Ms. Poonam Bhosale, learned APP representing the State, resists the Bail Application on the ground that admittedly, commercial quantity of Heroin was recovered and seized from the Applicant. She further submits that additional 150 gms of Heroin was also recovered and seized from the house of the Applicant. She also submits that the officers have complied with all the provisions of the NDPS Act and the

charges are likely to be framed soon and hence, the Bail Application be rejected.

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

7. Undoubtedly, commercial quantity of Heroin is recovered and seized from the Applicant. However, Accused No.1 is granted bail by the Sessions Court. There was an exchange between the parties when the Police apprehended them and there is no material on record at this stage to indicate as to which accused was giving the contraband to other. There is an element of doubt pertaining to the quantity of substance with the Applicant. Moreover, it appears that the Applicant is in custody since 8th February 2024 and has already suffered incarceration for more than 1 year and 9 months; charges are not framed as yet and it is unlikely that the trial in the case would conclude in the foreseeable future. In these circumstances and more particularly, in view of the fact that there are no antecedents against the Applicant and

he is a young boy of 20 years and it is not desirable that the Applicant should languish in custody in the company of hardened criminals, I am inclined to enlarge the Applicant on bail. At this stage, Ms. Poonam Bhosale, learned APP, points out that the Applicant is resident of Uttarakhand and it will be difficult to secure his attendance during the trial.

8. However, considering the long incarceration of the Applicant, I am of the view that bail can be granted to the Applicant by imposing stringent conditions on him. 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.

9. In view of the foregoing, the Applicant is released on bail on following conditions:

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 not leave the Maharashtra state till the charges are framed;
- iii) The Applicant shall 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.;
- iv) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

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

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

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

viii) 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 Police Station concerned;

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

x) 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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signed by
SHAMBHAVI
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SHIVGAN
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