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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1392 OF 2025**

Chintan Rajubhai Panseriya ...Applicant
Versus
The State Of Maharashtra ...Respondent

Mr. Rizwan Merchant, *with Faisal F. Shaikh, for the Applicant.*
Ms. Anamika Malhotra, *with Poonam P. Bhosale, APP for the*
State-Respondent.

CORAM **Dr. Neela Gokhale, J.**
RESERVED ON: **11th November 2025**
PRONOUNCED ON: **13th November 2025**

JUDGMENT:-

1. The Applicant seeks his release on bail in connection with FIR No.25 of 2022 dated 29th March 2022 registered with the Anti Narcotic Cell (ANC), Worli Unit, Mumbai for the offences punishable under Sections 8(c), 22(c), 25, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 ('NDPS Act' for short).

2. The Applicant was arrested on 20th December, 2023. The Bail Application is preferred primarily on the ground of long

incarceration of the Applicant without a real prospect of the conclusion of the trial in NDPS Special Case No. 1219 of 2022 arising out of C.R. No. 25 of 2022.

3. The Applicant is in custody for about 2 years. The Applicant asserts that the matter was listed for framing of charges on 10th November 2025, however, till date, charges are not framed. Therefore, the Applicant deserves to be enlarged on bail.

4. The Applicant has referred to a decision of the Supreme Court in the matter of a co-accused, who is released on bail on the ground of long incarceration. Mr. Rizwan Merchant, learned counsel appearing for the Applicant thus, submits that on the ground of parity, the Applicant also deserves to be enlarged on bail.

5. The facts in brief of the present matter are that:-

5.1 Initially an FIR No.25 of 2022 was registered by the ANC, Worli Unit, Crime Branch, Mumbai on 29th March 2022 for the offences alleged as above. There are in all 12 accused persons. In the course of the investigation, it was revealed that the Accused No.7, one, Mr. Ramendrakumar Dixit was primarily responsible for manufacturing the contraband in a factory of a firm called Infinity Research and Development. The firm was owned by the Applicant and was located at Ankleshwar, Gujarat. The Applicant was the licensee of the said firm, the same being issued in his name by the Directorate of Industrial Safety and Health of the State of Gujarat. The license was valid for the period from 1st June 2021 up to 31st December 2025.

6. On completion of investigation, the final report under Section 173 of the Code of Criminal Procedure, 1973 was filed before the Sessions Court, Mumbai as Special Case No.1219 of 2022. When the Ankleshwar Police visited the factory premises on 16th August 2022, a large quantity of contraband

goods was seized from the premises. Accordingly, the Applicant and the Co-accused were arrested on various dates. There was an issue raised by the Applicant before the Gujarat High Court in respect of a challenge to the application seeking discharge from the case rejected by the Additional Sessions Judge, Ankleshwar. Essentially, the Applicant had sought revision of the order rejecting his discharge on the ground of non-maintainability of 2 FIRs pertaining to the same offence. The Gujarat High Court by its order dated 15th July 2024 held that the second FIR at Ankleshwar Police Station, pertaining to the same incident merged with the FIR registered at ANC, Worli Unit, Crime Branch, Mumbai. The Revision Application was rejected by the Gujarat High Court.

7. The Applicant then made an application before the Special Judge (NDPS), Greater Mumbai, seeking bail. However, by an order dated 16th December 2024, the Special Judge rejected the said application. Hence, the Applicant is before this Court for the reliefs as prayed.

8. Mr. Merchant, in defense of the Applicant, submits that the Applicant was not at all concerned nor connected with the offence. He submits that although license of the firm was issued in the name of the Applicant as also the premises of the firm belonged to the Applicant, the Applicant was not in charge of the day-to-day affairs of the manufacturing activity of the firm, and he visited the firm premises only once in 10 days. Hence, according to Mr. Merchant, the Applicant was absolutely oblivious to the details of the manufacturing activity in the factory. Mr. Merchant draws my attention to the statements of various witnesses including the statement of the employees of the firm namely, Deepak Kundan Gupta, Sonukumar Shyamsundar Prajapati, Raji Ahmad Faryad Ahmad Khan, Abhishek Shrikrishna Murari Mishra, Kishan Himatbhai Bhadiyadara, Jayant Dineshbhai Hirpara, etc., who stated that the Applicant visited the firm premises once in ten days.

9. Mr. Merchant also relied upon an order dated 17th May 2024 passed by this Court in the Bail Application of the Accused Nos. 3 and 4. Accused No.4 was enlarged on bail by this Court while the Bail Application of the Accused No.3 was rejected. Thereafter, the Supreme Court by its order dated 15th October 2024 released the Accused No.3 on bail taking into consideration the period of incarceration of the said Accused. Mr. Merchant thus, claims parity for the Applicant with the Accused Nos.3 and 4. He thus, prays that the Applicant be released on bail.

10. Per contra, Ms. Anamika Malhotra and Ms. Poonam P. Bhosale, learned APPs representing the State, stoutly contested the Bail Application. Ms. Malhotra, stressed on the license issued in the name of the Applicant and the premises from which the contraband was seized to be in the name of the Applicant. She brought to my attention the provisions of Section 25 of the NDPS Act, which bring within its ambit the owner or occupier of a premises used for commission of the

offence under the Act. She submits that although nothing was recovered from the Applicant, the Applicant was found to be in the premises with Co-accused No.7 at the time of the search of the premises. She further submits that a total of 2428 kilograms and 959 grams of Mephedrone ('MD') was seized from all the accused, the value of which is approximately Rs.4857.91 Crores. In fact, the Mumbai Crime Branch seized 1723 kilograms and 250 grams of MD from the premises at the time when the Applicant was present in the factory. Similarly, on the very next date, the Ankleshwar Police seized 82 kilograms 387 grams of MD in solid form and 1300 liters of liquid MD from the same premises. On a query made by the Court to the APP, as to how the Investigating Agency concluded that the Applicant was in the know of the manufacturing activity of MD in the factory, Ms. Malhotra, learned APP tendered the bank statement of the Infinity Research and Development Firm. It is her submission that the statement of account of the firm revealed that there was no transaction pertaining to any legitimate debit or credit from

any purchaser or supplier appearing in the bank statement. According to her, there was no other drug or substance manufactured in the factory, save and except the manufacture of MD. Thus, the Applicant was well aware of MD being manufactured in the factory instead of drugs, for which the license was issued in the name of the Applicant. The learned APPs thus vehemently resist the Bail Application.

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

12. The facts of the case reveal that the Applicant was the owner of the premises, from which the huge quantity of contraband was seized. The license is also issued in the name of the Applicant for the purpose of manufacturing drugs and other substances. In these circumstances, ingredients of Section 25 of the NDPS Act are *prima facie* met. The question is as to whether a *prima facie* opinion can be formed regarding the knowledge of the Applicant. Admittedly, the statements of witnesses recorded by the Police indicate that it

was Mr. Dixit i.e., Accused No.7 and other Co-accused, who were primarily concerned with the day-to-day running of the factory. Statements of all the employees are consistent that said Dixit and others came to the factory every day and issued specific directions and instructions regarding the job work and the method of manufacturing, packing and dispatching the finished products. In so far as the role attributed to the Applicant is concerned, the witnesses have stated that the Applicant used to visit the factory premises once in 10 days. However, he used to stay for 2 hours and remain in his office.

13. Be that as it may, the statement of bank accounts reveal transactions only relating to purchase of some machinery. Other transactions show deposits by the Applicant and other accused in the account of the firm. What is significantly absent is any credits from any purchaser of drugs, chemicals, dyes, which the Applicant was legitimately permitted to manufacture in the factory, pursuant to the license issued in the name of the Applicant. The Applicant admittedly visited

the factory every 10 days. Thus, the fact of knowledge by the Applicant cannot be ruled out at this stage and it is only during the trial that the same can be determined. *Prima facie* there are no reasonable grounds to believe that the Applicant is not guilty of the offence.

14. The quantity of the substance seized is considerably large enough to raise serious concern. Section 37 of the NDPS Act, 1985 which begins with *non obstante* clause contains an interdict against releasing a person accused of committing offences punishable under Section 19 or Section 24 or Section 27-A and also for offences involving commercial quantity, unless the public prosecutor has been given an opportunity to oppose the application for such release and where the public prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

15. Sub section (2) of Section 37 further emphasizes that the limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force, on granting of bail.

16. Parliament has incorporated such restrictions in the matter of grant of bail to the person accused of grave offences under NDPS Act, 1985 keeping in view the damaging effect and devastating impact such offences have on society. Satisfaction of the Court that the accused will not indulge in identical offence becomes necessary as there is an apprehension that the person released on bail may again indulge in the nefarious activity of trafficking in drugs. Parliament has thus used the expression, “reasonable ground” which implies something more than *prima facie* ground. In the case of ***State of Kerala vs. Rajesh and Others***¹ the Supreme Court expounded the connotation of term, “reasonable

1 (2020) 12 SCC 122

grounds' in the context of restrictions contained in section 37 of the NDPS Act, 1985, as under:-

*“The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. **The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.** In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.”*

17. By a catena of judgments, the legal position is fairly crystallized that the Court has no jurisdiction to grant bail to an accused whose case falls within the ambit of section 37(1) of the NDPS Act, 1985 without recording a finding that the twin test envisaged by sub clause (b) of sub section (1) of Section 37 of the NDPS Act, 1985, adverted to above, stands satisfied.

18. In the case at hand, as noted above, the Applicant is seeking bail primarily on the ground of long incarceration

albeit Mr. Merchant has placed reliance on the statements of several witnesses to demonstrate the Applicant's nescience. Even otherwise, the allegations and material pressed into service against the Applicant are such that the interdict contained in section 37 of the NDPS Act, 1985 is clearly attracted.

19. Undoubtedly, there is a definite legislative purpose in providing additional restrictions in the matter of grant of bail, having regard to the gravity of the offences and the necessity to arrest the menace of drug trafficking. The restrictions in the matter of grant of bail under NDPS Act, 1985 and other enactments like MCOCA and UAPA etc., are based on the premise that the trial in such matters ought to be concluded expeditiously and that premise has been held to constitute a justification for such stringent provisions in the matter of grant of bail.

20. As against this interest of society, long incarceration of an accused, without a real prospect of conclusion of trial

within a reasonable period, gives rise to a competing interest of the accused an account of unjustified deprivation of personal liberty for an unreasonably long period as an under trial prisoner.

21. It is in the context of these competing interests; it has been held that the deprivation of right to speedy trial infringes the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. The statutory restrictions in the matter of grant of bail melt down in the face of unreasonably long period of incarceration. However, Ms. Malhotra has tendered the daily status of the Special Case No.1219 of 2022 pending before the Additional Sessions Court. The *roznama* indicates that the respective accused have made several and successive applications, seeking bail, permission to travel abroad, modification of travel dates, so on and so forth. The Trial Court has been dealing with and adjudicating the said applications and crucial time in conducting the trial is lost. Hence, the prosecution cannot be

found guilty of delaying the trial. Much stress was placed by Mr. Merchant on the order dated 15th October 2024 passed by the Supreme Court, releasing Accused No.3-Reshma on bail on the ground of long incarceration. However, the role attributed to Reshma demonstrates that no contraband was found with Reshma and she was roped in on the allegation of certain financial transactions between herself and her brother, Riyaz, Accused No.4. *Prima facie*, there was no other material apart from financial transactions between Reshma and Riyaz to show her complicity in the offence. Thus, the case of Reshma stands on a different footing than that of the Applicant. This Applicant thus, cannot avail the benefit of the Apex Court' order passed in the case of Reshma and claim relief on the ground of long incarceration.

22. Another important aspect in the matter is that the Gujarat High Court has refused to grant relief to the Applicant in the Revision Application filed by him, challenging rejection by the Sessions Court of Ankleshwar, of his Discharge

Application. Consequently, the Gujarat High Court has found a *prima facie* case against the Applicant establishing the embargo of Section 37 of the NDPS Act.

23. Considering the aforesaid discussion, in my opinion, the narrow parameters of bail under Section 37 of the NDPS Act are not satisfied. It is not safe to conclude that there are reasonable grounds to believe that the Applicant is not guilty of the offence alleged against him. The length of period of his custody in so far as this Applicant is concerned, by itself, is not a consideration that can be treated as a persuasive ground to grant relief to the Applicant.

24. In view of the aforesaid, the Bail Application is rejected. In view of the fact that this Applicant has suffered incarceration for almost 2 years, the Trial Court is requested to expedite the trial in the said case.

(Dr. Neela Gokhale, J)

SHAMBHAVI
NILESH
SHIVGAN

Digitally signed by
SHAMBHAVI NILESH
SHIVGAN
Date: 2025.11.13
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