

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1657 OF 2025

Tauhid Alam Kitabullah Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Nilesh Bangar, Advocate for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent.
- PSI – S. D. Patil, Shivaji Nagar Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2025

P.C.:

1. Heard Mr. Bangar, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent.

2. Applicant is incarcerated in prison for 11 months for offences punishable under the provisions of the Narcotic and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').

3. *Prima facie*, two specific transgressions are argued by Mr. Bangar. The transgressions are on the point of the prosecution Officers following the statutory provisions envisaged under Section 42(2) and Section 50 of the NDPS Act.

4. Mr. Bangar has drawn my attention to the appraisal letter issued under Section 50 of the NDPS Act appended at page No.39 of the Application to argue that the said appraisal letter does not bear any

endorsement of the Applicant. He would submit that only signature of Applicant has been obtained and therefore such an appraisal is contrary to the provisions envisaged under Section 50 of the NDPS Act. He would submit that such an appraisal letter is contrary to guidelines (iv) read with (vi) of the paragraph No.66 of the decision of the Supreme Court in the case of *Ranjan Kumar Chadha Vs. The State of Himachal Pradesh*¹.

5. That apart, he would submit that seizure panchnama was concluded at 16:40 hours (04:40 p.m.) and First Information Report (for short '**FIR**') was lodged at 16:10 hours (06:10 p.m.) and in this background when the seizure panchnama was conducted the printed number of the FIR was appended on the seized contraband. He would submit that before the FIR was lodged and registered, the prosecution team has printed the C.R. number of the crime and this is in transgression of the provision of Section 42(2) of the NDPS Act which has been in fact held to be so by the Court to be an apparent transgression in several cases for consideration of bail.

6. Mr. Bangar would refer to the decision of the Supreme Court in the case of *Kamaljit Singh @ Pappu Vs. The State of Punjab*² wherein the Supreme Court while dealing with a matter involving a similar issue had specifically framed a common issue relating to the

¹ 2023 SCC OnLine SC 1262

² Criminal Appeal No.424 of 2009 decided on 31.01.2019.

printed FIR number and recorded an observation that it is unfathomable to think as to how the FIR number could be noted on the search and seizure panchanama when the said panchanama was drawn up obviously at an earlier point in time and preceded the registration of the FIR subsequently.

7. This Court while dealing with the above issue in a group of matters namely *Sarfaraj Abdul Majid Ahmed Vs. The State of Maharashtra*³ and connected matters *Mahfooz Aalam S/o Istiyak Ahmed Choudhary Vs. The State of Maharashtra*⁴; *Mohd Mazhar Manzoor Ahmed Khan Vs. The State of Maharashtra*⁵; *Kuldeep Lalchand Gupta Vs. The State of Maharashtra*⁶; *Asha Adiram Lingam Vs. The State of Maharashtra*⁷; and *Mohammed Ali Habibullah Shaikh Vs. The State of Maharashtra*⁸; has held in paragraph Nos.42 and 43 as under:-

“42. In the present cases it is seen that at this prima facie stage, there is no plausible explanation given by the prosecution to justify the mention of the Crime Register Number on the label of envelope / box of containing the seized contraband pasted at the time of seizure panchnama prior to its registration. The observation of the Supreme Court in the case of *Kamaljeet Singh* (supra) applies on all fours to the facts of the present cases. Hence benefit of doubt needs to be given to the Applicants at this stage.

43. Filing of an FIR in NDPS cases must occur promptly following the detection of the crime to maintain its integrity and reliability. In the context of NDPS Act, the timing of the FIR in relation to detection of a crime is crucial. FIR serves as the initial document

3 Bail Application No.4954 of 2024 decided on 24.03.2025.

4 Bail Application No.5190 of 2024 decided on 24.03.2025.

5 Bail Application No.5386 of 2024 decided on 24.03.2025.

6 Bail Application No.5471 of 2024 decided on 24.03.2025.

7 Bail Application No.770 of 2025 decided on 24.03.2025.

8 Bail Application No.2364 of 2024 decided on 24.03.2025.

that sets the criminal law in motion, providing the earliest version of events concerning the commission of a cognizable offence. In NDPS cases, FIR must be filed as soon as possible after the detection of the crime. Delays can lead to questions about the authenticity of the Report and may suggest fabrication or embellishment. One cannot obtain the FIR Number before filing the FIR. FIR Number is assigned by the Police Station after the FIR is registered and recorded. It is an unique number. Police Officer must record the FIR in writing, read it back to the informant to ensure accuracy and have the informant sign it.”

8. Learned APP shall take appropriate instructions on the above submissions and accordingly apprise the Court on the next adjourned date to enable the Court to consider the Bail Application of the Applicant.

9. Stand over to **04th July, 2025.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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