

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1848 OF 2025**

Mohd. Fahim Mohd. Vasim Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Amol Thombre, *with Vishal Sarode, Yogesh Chikane and Sunil Chavan, for the Applicant.*

Mr. Yogesh Y Dabke, *APP for the Respondent-State.*

Mr. Suresh Salunkhe, *PSI attached to ANC Worli Unit, present.*

**CORAM DR. NEELA GOKHALE, J.
DATED: 18TH NOVEMBER 2025**

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No. 04 of 2024 dated 14th January 2024 registered with the ANC Worli Unit, Mumbai for the offences punishable under Sections 8(c), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. There are in all 2 accused. Accused No.1 is enlarged on bail by this Court by an order dated 14th January 2025.

3. Facts of the case, in brief, are that while on patrolling duty, officers of the ANC Worli Unit, Mumbai, came across the two accused lurking in suspicious manner in the Worli area. After following the due process of law, they were apprehended and searched. 1,250 grams of *Charas* was recovered from Accused No.2, i.e., the Applicant herein and non-commercial quantity of contraband substance *Charas* was recovered from Accused No.1. Thus, FIR was registered and the Applicant along with co-accused were arrested.

4. The Applicant made an application seeking bail before the N.D.P.S. Special Judge, City Civil & Sessions Court, Greater Bombay, however, by an order dated 17th April 2025, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

5. Mr. Amol Thombre, learned counsel appearing for the Applicant, has relied on the observations made by the Coordinate Bench of this Court while granting bail to co-accused- Mohd. Lukman Mohd. Irfan Khan. He submits that the Applicant stated to the Police that he was illiterate and was not able to read or write. According to him, the noting or the endorsement made on the letter under Section 50 of the NDPS Act could not have been understood by the Applicant as he is an illiterate person and was unable to read or write. He thus, submits that the Applicant ought to have been taken before the Magistrate/Gazetted Officer prior to his search. In this context, he submits that compliance under Section 50 of the NDPS Act, has not been made.

6. Mr. Yogesh Dabke, learned APP representing the State in the matter, contests the Bail Application by saying that the panchanama clearly records that the Applicant was orally informed about his right under Section 50 of the NDPS Act and thereafter, an endorsement was made. The Applicant's

thumb print appears below the said endorsement. The panchas as well as the Investigating Officer have signed the said endorsement. In these circumstances, he submits that compliance is made and the Bail Application be rejected.

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

8. Admittedly, the Applicant has specifically stated that he was unable to read or write. There is an endorsement in Hindi language, which the Applicant was well-versed with. However, the question remains as to whether he was able to read what was written on the said endorsement stated to be in compliance with Section 50 of the NDPS Act. The Applicant is in custody since 14th January 2024 and till date, charges are also not framed.

9. Admittedly, the Applicant has no antecedents against him. Considering that the compliance under Section 50 of the NDPS Act, is debatable at this stage and also on the ground of

long incarceration of the Applicant without there being any possibility of conclusion of trial in a foreseeable future, I am inclined to enlarge the Applicant on bail. Hence, the following order is passed:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Police Station concerned once in a month on the first Monday 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 concerned Police Station, 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.

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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