

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2059 OF 2025

Mohammed Aun Javed Haider Sayed ... Applicant

V/s.

The Union of India & Anr. ... Respondents

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Mr. Ali Kaashif Khan Deshmukh with Ms. Snigdha Khandelwal for the applicant.for the applicant.

Mr. Shreeram Shirsat, SPP with Ms. Antara Kulkarni and Mr. Shekhar V. Mane for respondent No.1-NCB (UoI).

Mr. Prasanna P. Malshe, APP for respondent No.2-State.

CORAM : AMIT BORKAR, J.

DATED : JULY 25, 2025

P.C.:

1. By this application preferred under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks his enlargement on regular bail in connection with Crime Register No.7 of 2021 registered with the Narcotics Control Bureau, Mumbai, for offences punishable under Sections 8(c), 22, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "NDPS Act").

2. The prosecution case, in brief, is that on the basis of specific intelligence received on 20th January 2021, a search operation was conducted by a team of officers of the Narcotics Control Bureau, Mumbai, at the residence of accused No.1, Parvez

Naserullah Khan @ Chinku Pathan situated at Ghansoli, Sector-6, Navi Mumbai. During the said search operation, 2 kilograms and 900 grams of Heroin along with 52.2 grams of Mephedrone (commonly known as MD) was allegedly recovered and seized. Based on the voluntary disclosure statement made by accused No.1, further search was conducted at the premises allegedly occupied by accused No.6, Mohammad Arif Bhujwala, wherein 5 kilograms and 375 grams of MD, 6 kilograms and 126 grams of Ephedrine, 990 grams of Methamphetamine and cash amounting to ₹2,18,25,600/- was seized under due panchnama.

3. Furthermore, pursuant to the statement of accused No.1, the premises of accused No.4, Mohammad Salman Khan was searched, resulting in recovery of 10.5 grams of MD. Similarly, based on the statement of accused No.2, Rahul Kumar Verma, the premises of accused No.5, Vikrant Jayantilal Jain @ Vicky Jain was searched, and 52.8 grams of MD was seized from the said premises. Additionally, based on the disclosure of accused No.6, Mohammad Arif Bhujwala, the premises of one suspect Asif @ Hussain Bilal Telwala was searched and 6 grams of Clonazepam tablets were allegedly recovered.

4. The applicant, who is arrayed as accused No.7, has been implicated on the basis of the statement of accused No.1, wherein it has been alleged that the applicant used to assist accused No.6 in the illegal trade of MD. In view of the said statement, the applicant came to be arrested on 25th January 2021.

5. Learned Advocate appearing for the applicant submits that though the prayer for bail made by the applicant earlier came to be rejected by this Court as well as by the Supreme Court, the same was done keeping in view the assurance of the prosecution that the trial shall be completed within a reasonable time. He invited the attention of this Court to the order dated 8th August 2024 passed by a Coordinate Bench in Bail Application No.2145 of 2024, which was subsequently affirmed by the Apex Court. In the said order, liberty was reserved in favour of the applicant to renew his application for bail in the event the trial was not concluded within the extended time. It is submitted that though time was extended on multiple occasions, most recently on 19th June 2025, no substantial progress has occurred in the trial. It is, therefore, urged that the right of the applicant to have a speedy trial under Article 21 of the Constitution of India is seriously infringed. It is further submitted that several co-accused, including those in actual possession of the contraband substances, have been released on bail. The applicant was not found in possession of any contraband material and has been in custody since 25th January 2021. On these grounds, the applicant seeks his release on bail.

6. Per contra, learned Special Public Prosecutor vehemently opposed the bail application and submitted that the plea regarding absence of recovery from the applicant has already been considered and rejected by this Court and the Apex Court in the earlier rounds. The right of speedy trial under Article 21 was also specifically dealt with by this Court in its order dated 8th August 2024, wherein it was observed that the trial could be concluded

within a reasonable time. The said observations and the reasoning of the Coordinate Bench have been upheld by the Supreme Court vide order dated 17th January 2025. Learned SPP further submitted, on instructions, that presently only eight witnesses remain to be examined and that each of them can be examined within a single day. Hence, the trial can be concluded within a period of two months. He, therefore, submitted that in the backdrop of these facts and circumstances, no case for grant of bail is made out at this stage, and the application deserves to be rejected.

7. I have given my anxious consideration to the rival submissions advanced by the learned counsel for the applicant and the learned Special Public Prosecutor. I have also perused the material placed on record, the orders passed in the previous rounds of litigation, and the record of the proceedings.

8. At the outset, it is required to be noted that the applicant is facing prosecution for serious offences punishable under Sections 8(c), 22, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The offence alleged against the applicant falls within the category of “offences involving commercial quantity” under the NDPS Act, wherein the rigours of Section 37 of the said enactment are attracted. As per settled legal position, once Section 37 is attracted, the Court is required to satisfy itself not only that there are reasonable grounds for believing that the accused is not guilty of such offence, but also that he is not likely to commit any offence while on bail.

9. It is also necessary to note that the present applicant has earlier approached this Court as well as the Supreme Court on two occasions seeking bail on similar grounds, including the contention that no recovery of any contraband substance has been made from him. On both occasions, the said contentions have been considered in detail and rejected by way of speaking and reasoned orders.

10. More particularly, in the order dated 8th August 2024, a Coordinate Bench of this Court had specifically dealt with the applicant's argument regarding violation of his fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India. After considering the overall progress of the trial and the number of witnesses already examined, this Court came to the conclusion that the trial was proceeding reasonably and that the right to speedy trial was not being infringed in the facts of the case.

11. That order has been confirmed by the Supreme Court vide its order dated 17th January 2025, thereby lending finality to the judicial finding that the grievance regarding delay in trial was not justified at that stage.

12. In such a situation, when the grounds now raised were already urged and considered on earlier occasions and were found to be without merit, there is no fresh material on record or change in circumstances that would persuade this Court to take a different view. The law is well settled that successive bail applications filed on the same grounds, without there being any material change in circumstances, are not maintainable and deserve to be rejected at

the threshold.

13. Permitting such repeated applications on the same grounds would amount to abuse of the process of the Court and may result in judicial inconsistency and uncertainty. Therefore, the present application, which is based on the very same contentions already rejected by this Court and affirmed by the Apex Court, cannot be entertained and is liable to be rejected on this ground alone.

14. So far as the grievance regarding delay in trial is concerned, I find that the same has been appropriately addressed by the Court from time to time. The record indicates that time for completing the trial was extended from time to time upon consideration of the factual progress. Most recently, on 19th June 2025, a further extension of six months was granted. The learned Special Public Prosecutor has submitted, on instructions, that only eight witnesses remain to be examined and that the prosecution is in a position to complete the recording of their evidence within a period of two months. There is no material to suggest that the prosecution is willfully delaying the trial or that there is any inordinate or unexplained delay attributable to the prosecution. On the contrary, the steps taken by the Court to monitor the progress of the trial, and the fact that significant number of witnesses have already been examined, clearly indicate that the grievance of delay does not sustain on the present record.

15. It is well settled that in serious offences under the NDPS Act, involving commercial quantities and the element of organised drug trafficking, the Courts are required to adopt a cautious and

guarded approach while considering bail. The legislative intent behind the stringent provisions of Section 37 is to curb the menace of narcotics and psychotropic substances, which pose a grave threat to the society at large. The offence under Section 27A, which deals with financing and harbouring activities related to narcotic drugs, carries an enhanced punishment, and the applicant has been specifically linked to such activity by co-accused who are themselves alleged to be conspirators.

16. The fact that some of the co-accused have been released on bail does not, by itself, entitle the applicant to claim parity. It is well settled that the role attributed to each accused must be assessed independently, and mere grant of bail to co-accused cannot be a ground for enlarging an accused against whom specific and serious allegations have been made. In the present case, the applicant is alleged to be actively involved in aiding and facilitating the core accused in drug trafficking operations. His continued custody, therefore, cannot be held to be unjustified at this stage.

17. In the light of the aforesaid circumstances and having regard to the embargo created by Section 37 of the NDPS Act, I am not satisfied that the twin conditions for granting bail under the said provision are fulfilled in the present case. There are no reasonable grounds at this stage to believe that the applicant is not guilty of the offence, nor is it possible to record satisfaction that he is not likely to commit any such offence while on bail.

18. Accordingly, I am of the considered view that no case for grant of bail is made out. The bail application is, therefore, liable to be rejected.

19. The Bail Application stands rejected.

(AMIT BORKAR, J.)