

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2081 OF 2025**

Arjun Bhimrao Jadhav

...Applicant

Versus

State of Maharashtra

...Respondent

Ms. Ashwini Achari, with *Taraq Sayed and Anish Pereira*, for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent-State.

Ms Akshada Pol (Pairavi Officer), PSI attached to Versova Police Station, present.

CORAM DR. NEELA GOKHALE, J.

DATED: 7TH NOVEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 163 of 2023 dated 22nd March 2023 registered with the Versova Police Station, Brihanmumbai City for the offences punishable under Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

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

2.1 On 22nd March 2023 at about 11.00 am. the Applicant in an inebriated condition, was looking for his scooter in the vicinity of Yari Road, Versova. He went to the police station and sought help of the police to locate his scooter. He informed the police that there was an amount of Rs.24,000/- and some jewelery kept in the said scooter. It is the further case of the prosecution, as it appears in the FIR, that once having found his scooter, the Applicant appeared to be in a hurry to flee. Finding the conduct of the Applicant suspicious, the police stopped him and after complying with the provisions of the NDPS Act, searched his scooter. The police recovered 2 packets containing 30 and 32 gms of 'Mephedrone' ('MD') respectively, from the dickey of his scooter, pursuant to which FIR was registered. The Applicant was arrested on 22nd March 2023.

3. The Applicant made an application seeking bail before the NDPS Special Judge, City Civil & Sessions Court, Greater

Bombay. However, by order dated 3rd June 2024, his bail application was rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Ms. Ashwini Achari, learned counsel appearing for the Applicant, at the very outset, raises an argument that there is a discrepancy in the recording of the panchanama and the story of the prosecution depicted in the FIR. She submits that the panchanama records the entire procedure of seizure being conducted by panchas, who are not authorized to conduct search and seizure. She further submits that the Applicant has already suffered incarceration for 2 years and 7 months and the charge is framed only on 27th September 2024. She submits that it is highly unlikely that the trial will conclude in a foreseeable future, and thus, prays that the Applicant be released on bail.

5. Ms. Anamika Malhotra, learned APP representing the State, on the other hand, submits that there are only 8 witnesses to be examined; commercial quantity of contraband

is recovered from the Applicant and rigors of Section 37 of the NDPS Act apply and thus, contests the Bail Application.

6. I have heard learned counsels appearing for the respective parties and perused the record with their assistance.

7. I have perused the FIR and the panchanama dated 22nd March 2023. A plain reading of the panchanama reveals that the search of the scooter was taken by the panchas. This is totally in contravention of the provisions of the NDPS Act. The panchas are not authorized to conduct search of the person, place or vehicle of the accused. Admittedly, there are no antecedents in respect of the Applicant. He has already suffered incarceration for a period of 2 years and 7 months.

8. Considering the contravention of the provisions of the NDPS Act, which provisions are sacrosanct and the period of incarceration already undergone by the Applicant, I am

inclined to enlarge the Applicant on bail. Hence, the following order:

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 attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- iv) The Applicant shall not leave India, without the permission of the Trial Court;

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

vi) 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;

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

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. 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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SHIVGAN

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