

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3033 OF 2025**

Aatif Mohd. Yunus Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Ayaz Khan a/w Dilip Mishra, Zehra Charania and Mallika Sharma, *for the Applicant.*

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

Pairavi PSI – Kishor Desai, Dindoshi Police Station, Mumbai, present.

CORAM DR. NEELA GOKHALE, J.

DATED: 16TH OCTOBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.877 of 2024 dated 25th October, 2024, registered with the Dindoshi Police Station, for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS').

2. The facts of the case, in brief, are that on intelligence collected by the officials, there was a trap set by the police and the Applicant Aatif was seen lurking in suspicious circumstances. On enquiry by the police, he tried to avoid their questions. It is alleged by the prosecution that after complying with the necessary provisions of the NDPS Act, search was undertaken of the person of the Applicant. A search was also undertaken of the scooter in presence of panchas. From the dickey of the scooter, one plastic bag containing 287 grams of Mephedrone (MD) was recovered. It was learnt that the Applicant was the distributor of the said substance. Hence, the FIR was registered and Applicant came to be arrested on 25th October, 2024.

3. The Applicant made an Application before the Spl. NDPS Court, Brihanmumbai, however, by order dated 7th July, 2025, the said Bail Application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

4. Mr.Khan, learned counsel for the Applicant, submits that there are many discrepancies in the search and seizure recording done by the police. He submits that search is illegal. At the outset, he pointed to the panchanama. He submits that the Applicant's personal search was conducted by a Sepoy namely one Mahajan. The entire search and seizure of the contraband from the scooter of the Applicant was conducted by the said Sepoy. Hence, he would submit that there is absolute disregard of Section 42A of the NDPS Act. He also points to the discrepancy in the Station Diary Entry. Station Diary Entry dated 25 October, 2024, records Entry No.7 at 4:12 a.m. however, the said entry refers to a subsequent entry i.e. entry No.13/2022. Hence, Mr.Khan, submits that the Station Diary Entry No.7 could not have been recorded after referring to Entry No.13/2022 which is subsequent to the original entry. He also submits that the letter under Section 42A was authored by the PI - Pagar, who was not the recipient of the intelligence report. He also pointed to the various discrepancies in the statement of

various police officers. The information regarding expected arrival of the accused – Applicant is between 04:00 a.m. to 05:30 a.m. however, the record shows that the panchas were called by the police only at 04:55 a.m. which Mr.Khan, submits is totally contrary to the records of the police. There is also no signature of the Magistrate on the inventory panchanama and on the bulk and samples. He also points to various other discrepancies in the record. Mr.Khan, thus submits that considering that there are so many discrepancies in the search and seizure as well as other investigation carried out by the Investigating Officers concerned, the Applicant be released on bail.

5. Per contra, Mr.Dabke, learned APP, on instructions, submits that Station Diary Entry No.7 is a typographical mistake. He also submits that embargo of Section 37 is not being fulfilled since the quantity of 287 grams of MD was recovered from the Scooter of the Applicant. He further submits that the Sepoy may have take search of the Scooter of

the Applicant, but who has recovered the contraband and handled it is not recorded in the panchanama. He again submits, on instructions, that it is the competent authority who has carried the search and seizure and all the compliances under the NDPS Act are made. He thus, prays that the Application be rejected.

6. I have heard learned counsels for the respective parties and gone through the record of the case with their assistance.

7. It *prima facie* appears from the statement of Sepoy, Bhushan Mahajan dated 21st January, 2025, that there is an ambiguity in the recording of the panchanama and it is not clear as to exactly which police officer recovered the substance. The scooter is searched apparently by Sepoy Mahajan and the helmet was also removed by said Mahajan from the dicky. The search of the scooter for the contraband is taken by which officer is not recorded in the panchanama. Moreover, the Station Diary Entry No.7 refers to a Station

Diary Entry No.13/2022, which seems improbable since the Station Diary Entry No.13/2022 cannot be prior to the Station Diary Entry No.7. There appears to be other discrepancies in the statement of the police officials, as well. There is also a discrepancy in the quantity of the material recovered as well. At some places, the contraband is reflected as 270 grams of MD as recovered from the Applicant's scooter and at other places, it appears as 287 grams. Considering the discrepancies in the investigation, *prima facie* I am of the view that the Applicant has not committed the said offence. Admittedly, there are no antecedents in respect of the Applicant. It is thus, unlikely that the Applicant will repeat the said offence. In these circumstances, embargo of Section 37 is fulfilled, I am inclined to enlarge the Applicant on bail on the following conditions:-

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.1,00,000/ 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) The Applicant shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m.;

iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

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 contact 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 Police Station concerned;

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

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

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

9. 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)