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

CRIMINAL BAIL APPLICATION NO. 3398 OF 2025

Nikhil Maruti Kad ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr. Omkar Nagvekar i/b Mr. Rushikesh Patil, Advocate for the Applicant.

Ms. M. R. Tidke, APP for Respondent/State.

Mr. Ganpat Dhaygude-API, Chakan Police Station, Pimpri-Chinchwad Pune.

CORAM : ASHWIN D. BHOBE, J.

DATE : 4th SEPTEMBER, 2025.

P.C. :

1. Heard Mr. Omkar Nagvekar, learned Advocate for the Applicant and Ms. M. R. Tidke, learned APP for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 252 of 2025 registered with Chakan Police Station, District-Pune for the offences punishable under Sections 61(2) & 217 of the Bharatiya Nyaya Sanhita, 2023 ("BNS" for short) and Sections 8(c) & 22(B) of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 ("NDPS Act" for short).

3. Mr. Omkar Nagvekar, learned Advocate for the Applicant submits that the Crime No. 252 of 2025 is registered as Special Case No.

86 of 2025 and is pending on the file of Additional Sessions Judge, Khed-Rajgurunagar, Pune.

4. There are 5 accused persons in the present crime. Applicant is Accused No. 2.

5. Prosecution case is that upon receipt of secret information, one black colour Scorpio vehicle carrying psychotropic substance was intercepted and searched. Mephedrone (MD) weighing 7.36 grms, worth Rs. 70,000/-, kept in the pocket of the driver's seat, was seized. Said vehicle was driven by Tushar Malbhau Kad (Accused No. 5).

6. Applicant was arrested on 7th May 2025. Criminal Bail Application at Exhibit-5 filed by the Applicant in Special Case No. 86 of 2025, was rejected by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, by order dated 25th July 2025.

7. Mr. Omkar Nagvekar, learned Advocate for the Applicant submits that the allegations on the basis of which the Applicant is arrested, is of hatching conspiracy. He submits that no contraband was found in possession of the Applicant. He submits that the contraband Mephedrone (MD), which is the subject matter of the crime, was found in possession/in the car of Accused No. 5. He submits that Accused No. 5 was released on bail by the Additional Sessions Judge, Khed-Rajgurunagar, Pune vide order dated 8th May 2025 passed in Criminal Bail Application No. 289 of 2025 (page nos. 302 to 306 of the paper-book). He submits that subsequently Accused No. 5 has been discharged from Crime No. 252 of 2025 under Section 189 of the BNSS vide order dated 24th June 2025 (order is at page no. 17 of the paper

book). He submits that the Applicant does not have any criminal antecedents. He further submits that Vasim Hanim Shaikh (Accused No.1) is released on bail by learned by the Additional Sessions Judge, Khed vide order dated 3rd September, 2025 passed on Exhibit-19 is Special Case No.86 of 2025.

8. Ms. M. R. Tidke, learned APP for the State/Respondent submits that though contraband was seized from the Accused No. 5, involvement of Applicant in the present crime is of hatching a conspiracy. She submits that Accused No. 5 was initially granted bail and thereafter has been discharged from Crime No. 252 of 2025. She submits that contraband in the present crime is an Intermediate quantity. She submits that the Applicant has a criminal antecedent in respect of an offence punishable under Sections 354, 325, 324, 323, 504, 506 and 34 of IPC.

9. In response to the contention of the Ms. M. R. Tidke, learned APP with reference to the antecedents, Mr. Omkar Nagvekar, learned Advocate for the Applicant, submits that the said crime referred by the learned APP does not pertain to offence under the NDPS Act. He submits that the Applicant has made out a prima facie case for seeking indulgence for bail as such the criminal antecedents would not be a bar for considering the prayer for bail.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Records reveal that Crime No. 252 of 2025 was registered against Accused No. 5, who was found in possession of the contraband.

Subsequently, 3 other persons and the Applicant have been added to the said crime as accused. Accused No. 5 was released on bail and subsequently is discharged from Crime No. 252 of 2025.

12. Case does not involve commercial quantity as such, rigors of Section 37 of the NDPS Act would not apply. Considering the nature of allegations against the Applicant and the facts of the case, more so Accused No. 5 from whom the contraband was seized, is discharged from Crime No. 252 of 2025, continuation of the Applicant in jail pending the trial would not be warranted. Applicant is therefore entitled to bail.

13. In view of the above, the present Bail Application is allowed on the following conditions:-

(a) Applicant is directed to be released on bail in connection with Crime No. 252 of 2025 registered with Chakan Police Station, District-Pune for the offences punishable under Sections 61(2) & 217 of the BNS and Sections 8(c) & 22(B) of the NDPS Act on executing PR. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Khed-Rajgurunagar, Pune.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.

(c) Applicant shall not tamper with the prosecution witnesses and evidence in any manner.

(d) Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Chakan Police Station, District-Pune and shall keep the same updated, in case of any change thereto.

(e) Applicant shall co-operate in the conduct of the trial of Special Case No. 86 of 2025 and shall regularly attend the hearing of the case pending before Additional Sessions Judge, Khed-Rajgurunagar, Pune, on each and every date, unless exempted from appearance.

14. Criminal Bail Application No. 3398 of 2025 is allowed in the above said terms.

(ASHWIN D. BHOBE, J.)