

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

BAIL APPLICATION NO.3407 OF 2025

Hasan Sabid Mohammed Badiulla Shaikh	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Sherali Khan a/w Tabish Shaikh, *for the Applicant.*
Ms. Megha S. Bajoria, *APP for the Respondent - State.*
PSI – Amit Ghogare, ANC Worli Crime Branch, Mumbai,
present.

CORAM DR. NEELA GOKHALE, J.
DATED: 16TH DECEMBER 2025

PC:-

- 1.** The Registry has not placed the papers in the matter before the Court today.

- 2.** In order to avoid inconvenience, I have taken a copy of Bail Application from the learned APP and the matter is taken up for hearing.

- 3.** By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 66 of 2024 dated 18th October, 2024, registered with the Anti Narcotic

Cell ('ANC'), Worli Unit, Mumbai, for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS').

4. There are in all two accused. The present Applicant is arraigned as Accused No.1.

5. The facts of the case, in brief, are that on 17th October, 2024, while the police officials of the ANC, Worli Unit, Mumbai, were on patrolling they found two persons lurking in a suspicious circumstances near Sion-Bandra Link Road, Dharavi, Mumbai, at 23:35 hours. When the police intercepted them, one person had blue coloured plastic pouch in his left hand and the other person had a black coloured pouch in his right hand. After complying with the mandatory provisions of the NDPS Act, the Applicant and the co-accused were searched. From the present Applicant, 60 grams of Mephedrone was seized and from the co-accused 5 grams of Mephedrone was recovered. The Applicant and the co-accused namely, Rehan Shaikh were arrested pursuant to registration

of FIR. Since the co-accused was found in the possession of only 5 grams i.e. non-commercial quantity of Mephedrone, he was granted bail.

6. The Applicant made an application seeking bail before the Special Court (NDPS), however, by order dated 7th July, 2025, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

7. Mr. Khan, learned counsel for the Applicant, submits that the Applicant was arrested on 18th October, 2024, and till date charges are not framed. He placed reliance on the order of the Supreme Court in the case of *Abuzar Shakeel Khan v. State of Maharashtra*¹. Contention was made before the Supreme Court in that matter that if the weight of the packing is excluded, the contraband so recovered would be of intermediate quantity. Thus, in the facts of the case before the Supreme Court, the Appellant carrying 60 grams of

1 SLP (CrI.) No(s).7284 of 2025

Mephedrone with its packing was released on bail. Hence, Mr. Khan submits that the Applicant be enlarged on bail.

8. Ms. Megha Bajoria, learned APP representing the State, contests the Bail Application. She submits that 60 grams of Mephedrone is a commercial quantity. She further submits that the offence is serious and the weight of the plastic pouch, in any case, will not be beyond 2 grams. She thus, prays that the Application be rejected.

9. I have heard learned counsel for the respective parties and perused the record of the case with their assistance.

10. I have gone through the decision of the Supreme Court in the case of *Abuzar (supra)*. The facts of that case are identical to the present case. The commercial quantity recovered from the Applicant in that matter was also 60 grams of Mephedrone. The commercial quantity of Mephedrone is above 50 grams. If the weight of the packing is

excluded, the contraband so recovered may be of intermediate quantity, hence, the bail was granted to that Accused. In a series of judgments, the Supreme Court has observed that long incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India and as such, conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 may, in such circumstances, be considered. Since the present Applicant has also suffered incarceration of more than one year, I am inclined to enlarge the Applicant on bail.

11. In view of the aforesaid discussions, it is accordingly ordered as under:-

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) 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.

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

13. 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)