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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3671 OF 2025**

Bhupendra Khandelwal ...Applicant
Versus
State Of Maharashtra ...Respondent

Ms. Kinjal Khandelwal, *for the Applicant.*

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

Mr. Nilesh Dhumal, *API attached to Anti-Narcotics Cell, Navi Mumbai, present.*

CORAM Dr. Neela Gokhale, J.
DATED: 11th NOVEMBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No.251 of 2024 dated 12th June 2024 registered with the APMC Police Station, Navi Mumbai for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

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

2.1 On a secret information received by the Police on 12th June 2024, that two persons, namely, Jitendra Gupta, Accused No.1 and Accused No.2 (the Applicant herein), were to arrive near Nine Stone Hotel, Kopari signal, Sector 19 D, APMC, Vashi, Navi Mumbai to sell the contraband, a trap was laid and both the accused were apprehended. After complying with the provisions of the NDPS Act, the Applicant and the co-accused were searched; 71.50 gms and 60 gms of contraband were recovered from the co-accused and the Applicant respectively. Thus, an FIR was registered and the Applicant and the co-accused were arrested.

3. The Applicant made successive applications seeking bail before the Special Judge (NDPS Act), Belapur, Navi Mumbai, however, by orders dated 28th February 2025 and 19th August 2025, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Admittedly, the co-accused (Accused No.1) was granted default bail since the charge-sheet was not filed within the stipulated time.

5. Ms. Kinjal Khandelwal, learned counsel appearing for the Applicant, contends that the contraband alleged to have been recovered from the Applicant weighed 60 gms with its plastic pouch and if the weight of plastic pouch is excluded, the contraband so recovered would be of non-commercial quantity. She further submits that taking into account that the Applicant does not have any criminal antecedents against him and he has already suffered incarceration of 1 year and 5 months, the Applicant be released on bail.

6. On the other hand, Ms. Anamika Malhotra, learned APP representing the State in the matter, submits that 60 gms of the contraband is of commercial quantity. The C.A. Report is also received and the substance recovered from the Applicant is tested positive for the said contraband. She submits that all the compliances under the NDPS Act have been made by the

Police officials. She thus, prays that the Bail Application be rejected.

7. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. Ms. Khandelwal, learned counsel appearing for the Applicant, has placed on record the judgment and order of the Supreme Court dated 22nd August 2025 in the matter of *Abuzar Shakil Khan Vs. State of Maharashtra*¹. The facts of that case are identical to the present case. The commercial quantity recovered from the Applicant in that matter was also 60 gms of Mephedrone. The commercial quantity is 50 gms. If the weight of the packing is excluded, the contraband so recovered may be of intermediate quantity, hence, the bail was granted to the 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

¹ SLP (Cri) No. 7284 of 2025

liberty overriding the statutory embargo created under Section 37 of the NDPS Act, 1985 may, in such circumstances, be considered.

9. Therefore, taking into account that the Applicant has no criminal antecedents and he has already suffered incarceration for 1 year and 5 months, I am of the view that he is entitled to be released on bail more particularly, when there is no likelihood of the trial being concluded in the near future. Hence, I pass 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 Police Station concerned once in a month on the first Monday of every month between 11:00 a.m. to 02:00 p.m., till the charges are framed;

iii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

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

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 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;

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

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

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

11. 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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signed by
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