

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

BAIL APPLICATION NO.3831 OF 2025

Zahir S/o Vahid Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Keshav Lalchand Damani i/by Ms. Sandhya Gaikwad, *for the Applicant.*

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

PSI – Ajay J. Powar, Bandra Police Station, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 08TH OCTOBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.1038 of 2023 dated 12th July, 2023, registered with the Bandra Police Station, for the offences punishable under Sections 8(c) and 22(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS**').

2. The facts of the present case, in brief are that on 11th July, 2023 at around 11:00 p.m., while on patrolling duty the Police officials apprehended the Applicant as he was found

loitering in suspicious circumstances. After complying with the necessary formalities, search was taken and 52 grams of Mephedrone (MD) was recovered from his person. Accordingly, the FIR came to be registered.

3. The Applicant made an Application before the NDPS Special Judge, 42nd Court, Mumbai, however, by order dated 21st August, 2025, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

4. Mr.Damani, learned counsel for the Applicant submits that the Applicant was arrested on 12th July, 2023 and till date, even charges are not framed. He submits that the Applicant does not have antecedents. Pointing to the contents of the FIR, he submits that initially the Applicant was searched and about 54 to 55 small packets of MD were recovered from his pocket and thereafter, the panchas came and the procedure under the NDPS Act was followed. He thus, submits that in view of the non-compliance of mandatory procedure under the NDPS Act as well as long incarceration of

the Applicant without the charges being framed, the Applicant be released on bail.

5. Mr.Dabke, learned APP representing the State on the other hand, resists the bail. He submits that the fact remains that commercial quantity of MD was recovered from the Applicant. He submits that all the compliances were followed and there is no lacunae on the part of the Investigating Officer in complying with the provisions of the Act. He, however, admits that the charges are not framed and the Applicant has no antecedents. He further submits that, considering that MD was recovered from the person of the Applicant, there is no doubt that he is complicit in the present offence. He thus, prays that the present Bail Application be rejected.

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

7. Admittedly, the Applicant was arrested on 12th July, 2023 and till date charges are not framed. The Applicant has already suffered incarceration for 2 years 2 months and 27 days. Considering that the search of the Applicant itself is under a cloud of doubt and also on account of his long incarceration, I am inclined to allow the present application. It is to observe that failure to conclude the trial within reasonable time resulting in prolonged incarceration of the Applicant, militates against the fundamental rights of the Applicant guaranteed under Article 21 of the Constitution of India and as such conditional liberty overriding the statutory embargo of Section 37 of the NDPS Act may be considered. In these circumstances, I am inclined to grant bail to the Applicant and it is 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 concerned Police Station once in a month between 11:00 a.m. to 02:00 p.m. till the charges are framed;

iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the concerned 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 mobile 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 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.

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)