

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.3890 OF 2025**

Rizwan Ahmed Mohd. Hasnain Shaikh **...Applicant**

*Versus*

State of Maharashtra **...Respondent**

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**Mr. Kamlesh Satre** *a/w Gorakh Liman, for the Applicant.*  
**Ms. Manisha Tidke**, *APP for the State-Respondent.*  
**API – Sunit Ghadge**, *D. N. Nagar Police Station, Mumbai, is present.*

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**CORAM    DR. NEELA GOKHALE, J.**  
**DATED:    02<sup>ND</sup> DECEMBER 2025**

**PC:-**

**1.** By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 216 of 2025 dated 8<sup>th</sup> February 2025 registered with the D. N. Nagar Police Station, for the offences punishable under Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”) and Section 111 of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS”).

**2.** The facts of the case, in brief, are that on 7<sup>th</sup> February 2025 at 8:05 p.m., the police received information in the police station that the Applicant will be found with narcotic substance in his house which is on the 4<sup>th</sup> floor of his resident near Junaid Nagar, Andheri (W), Mumbai. Accordingly, the police officials went to the said location. They found the present Applicant in his house in possession of 60 grams of Mephedrone. An FIR was filed pursuant to which, the Applicant was arrested on 8<sup>th</sup> February 2025.

**3.** The Applicant made an application seeking his release on bail before the Special NDPS Court, Greater Bombay. However, by order dated 29<sup>th</sup> September 2025, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

**4.** The only ground on which Mr. Kamlesh Satre, learned counsel for the Applicant, seeks bail for the Applicant is that there is non-compliance of Section 42 of the NDPS Act at all. It is his submission that since the police received information

itself, there was every opportunity for the officer to reduce into writing the said information and forward the same to the superior officer. However, without taking pains to comply with the said procedure, police proceeded and arrested the Applicant. In these circumstances, he submits that there is absolute non-compliance with the Section 42 of the NDPS Act. He thus submits that on this ground alone, the Applicant deserves to be enlarged on bail.

**5.** Ms. Manisha Tidke, learned APP, draws my attention to the Special Report dated 8<sup>th</sup> February 2025 sent by the police to the superior officer. It is received by the superior officer on 10<sup>th</sup> February 2025. The details of the action taken by the police are recorded in the said Special Report. She submits that this is sufficient compliance of Section 42 and hence, the present Application be rejected. She also submits that there is an antecedent in respect of the Applicant in relation to another offence under the NDPS Act.

**6.** I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

**7.** As pointed out by Mr. Satre from the entire material available on record, there is nothing to indicate that Section 42 of the NDPS Act is complied with. Admittedly, the police received information from their secret sources pertaining to the Applicant and his activities. There was sufficient time for the police to reduce into writing the said information and forward the same to the superior officer as contemplated under the said provision. However, without doing so, they proceeded to track the Applicant and finally arrested him from his house.

**8.** Undoubtedly, 60 grams of Mephedrone is seized from the Applicant. However, in the face of total non-compliance of Section 42 of the NDPS Act, there is reasonable ground to believe that the Applicant may not have committed the said offence. The facts and circumstances in the present case are

distinct from the facts and circumstances in a case where there is atleast a semblance of compliance of the NDPS Act. The Special Report as pointed by Ms. Tidke records the action taken by the police and in this particular case, it cannot be construed as compliance of Section 42 of the NDPS Act. Insofar as the antecedent is concerned, Mr. Satre explains that the quantity recovered from the Applicant in the other case was small and he is already enlarged on bail in that matter.

**9.** In view of the aforesaid, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under

### **ORDER**

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/ 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., till the charges are framed;

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.

**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)