

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4515 OF 2025**

Shafik Siddhiqui Shaikh

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Dilip Mishra, *with Ayaz Khan, Zehra Charania, Mallika Sharma, for the Applicant.*

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

Mr. Sunit Ghadge, *API attached to D N Nagar Police Station, Mumbai, present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 04TH DECEMBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with the FIR No. 252 of 2025 dated 15th February 2025 registered with the D.N.Nagar Police Station, Brihanmumbai City for the offences punishable under Sections 8(c), 20(b)(ii) (C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short) and under Section 111 of the Bharatiya Nyaya Sanhita, 2023 ('BNS'). There are in all 3

accused. Accused No.2 has been discharged from the offence by the Trial Court. The Applicant is Accused No.1. Accused No.3 has just been arrested and the charge-sheet was filed against Accused No.2 and the Applicant prior to arrest of Accused No.3.

2. The case of the prosecution, in brief, is that:-

2.1 On 14th February 2025 at around 18:00 hours, the Police while on patrolling duty, received information that the Applicant is dealing in *Charas* and will be found at 3 storeyed building near Darusalam Masjid. Accordingly, raiding party proceed to the said place. They found the Applicant lurking in suspicious circumstances outside the said 3 storeyed building. The Police made inquires with him but he gave evasive answers. The officials asked him for the key of the flat. It is the case of the prosecution that the key was handed over to the Police by the Applicant and using that key, the Police were able to enter the said flat. The Applicant himself showed iron cupboard from which 1034 grams of *Charas* was recovered.

Thus, the Applicant was arrested pursuant to the FIR registered against him and co-accused.

3. The Applicant made an application seeking bail before the Special Judge (NDPS), Brihanmumbai, however, by order dated 14th November 2025, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Dilip Mishra, learned counsel appearing for the Applicant, submits that nothing was recovered from the Applicant and the flat in which the *Charas* was found, belonged to Accused No.3 and his wife. He further submits that according to the story of the prosecution, the key of the flat was found in possession of the Applicant and the Applicant was directed to open the door of the flat. Accordingly, the flat was opened and inside the flat, the contraband was found. Mr. Mishra additionally submits that there is no record of seizure of the said key, which creates a cloud of doubt as to whether the Applicant was aware of the

existence of the contraband in the said flat. In these circumstances, Mr. Mishra submits that there is every ground to believe that the Applicant has not committed the present offence. He further points to arrest form pertaining to the Applicant. The form records that 1034 grams of Mephedrone ('MD') was found from the said flat whereas the story of the prosecution is that 1034 grams of *Charas* was found from the said flat. He further submits that till date, there is no C.A. Report on record. Mr. Mishra thus, prays that the Applicant be released on bail.

5. Per contra, Mr. Yogesh Dabke, learned APP representing the State in the matter, submits that the offence is serious; the Applicant was residing with Accused No.3 in the said flat and he is connected with the said offence. He further submits that the discrepancy in the arrest form is a human error on the part of the Investigating Officer and the station diary clearly records that 1034 grams of *Charas* and not 'MD' was recovered from the said flat. He also submits that the

Applicant has 3 antecedents, 1 of which relates to the offence under the Indian Penal Code and 2 are related to the offences under the NDPS Act. At this stage, Mr. Mishra clarifies that the said offences pertain to non-commercial quantity of substance and hence, it cannot be said that the Applicant is a habitual offender.

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

7. A plain reading of the FIR indicates that the key of the flat, even according to the case of the prosecution, was taken from the Applicant and the Applicant himself was directed to open the flat from which the substance was recovered. There is no material on record to indicate that the said key was seized from the Applicant and what happened to the key thereafter. Admittedly, the said flat stands in the name of Accused No.3 and his wife as the electricity meter is also in the name of wife of Accused No.3. There is no recovery of contraband from the person of the Applicant. Considering that

the seizure of the key is not recorded anywhere in the records and proceedings, there is reasonable ground to believe that the Applicant may not have committed the present offence. So far as the antecedents against the Applicant are concerned, the offences under the NDPS Act relate to non-commercial quantity of contraband.

8. In view of the aforesaid discussion, I am inclined to grant bail to the Applicant. Hence, 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 Police Station concerned once in a month on first Saturday 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.

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

10. 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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