



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.56 OF 2026

Mininath Vishnu Rashinkar,
Age: 38 years, Occ. Farmer,
R/o. Dhangarwadi, District Rahata,
(Presently lodged in Shirampur Sub Jail) ..Applicant

Versus

The State of Maharashtra,
(Through Shirampur City Police Station) ..Respondent

...
Mr. Kushal More a/w Mr. Kewal Khandagale & Mr. J.S. Salunke,
Advocate for Applicant.
Mr. P.P. Dawalkar, APP for Respondent-State.

...
CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : MARCH 11, 2026.

PRONOUNCED ON : MARCH 27, 2026.

FINAL ORDER:-

1. The applicants seeks regular bail in connection with Crime No.499 of 2025 registered with Police Station Shirampur City Police Station for offences punishable under section 8 (c), 22 (c), and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 ('NDPS Act' for short), which is pending trial in Special Case No.42 of 2025 pending before Sessions Judge at Shirampur District, Ahmednagar,
2. The investigation was set in motion on the basis of information given by Mr. Nitin Bhaskar Deshmukh, Police Inspector, who was posted at Shirampur Police Station. On 14.05.2025, he received secret information that narcotic drugs were being transported

in a tempo in MIDC area. The informant secured presence of panch witness and completed pre-trial panchnama. He along with panchas and police officers reached MIDC area in police vehicle and noticed that tempo bearing Registration No.MH-20 BT-0951 passing towards Didhi village from Khandala. They intercepted tempo and found that applicant was on driver's seat. On further interrogation with applicant about goods loaded in vehicle, he gave evasive answers. On inspection of loaded goods in vehicle, 14 bags out of 21 were found containing white powder and 7 bags were containing white crystalline substance having strong and bitter odour.

3. The vehicle along with goods was taken to police station. The crystalline substance was Alfrazolam and white powder was raw material used for manufacturing same. It is a prohibited substance under Schedule No.30 of NDPS Act. If quantity of seized substance exceeds 100 grams, it is presumed to be for commercial use. The inventory was carried. The approximate value of narcotic substance was 13,75,41,000. Accordingly, offences came to be registered against applicant and another. The applicant filed application below Exhibit-27 in Special Case No.42 of 2025 for grant of bail under section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023. However, his application came to be rejected vide order dated 22.12.2025.

4. Mr. Kushal More, learned advocate appearing for applicant would submit that applicant is innocent person. The applicant had no

knowledge regarding nature, content or ingredients of alleged contrabands said to have been found in rear portion of tempo. The alleged contrabands were not found in conscious position of applicant. They were not seized from possession of applicant nor applicant had ownership or control over said contrabands. The conduct of applicant shows that contrabands were not secretly stored. On inspection of vehicle, applicant cooperated with police persons and provided every detail known to him. Evidence in charge sheet is bereft to make out case for conscious position. The statutory presumption under section 54 of NDPS Act is not applicable in facts of the case, as fundamental requirement to make out conscious possession is absent. The applicant is in driver's job. The statement of vehicle owner is recorded, which clarifies that applicant is unconcern with contrabands. Accused Nos.3 and 4 are already granted bail. Accused No.5 is absconding. In support of his contention, he relies upon observations of ***Saneesh Soman Vs. Narcotics Control Bureau*** reported in ***2025 SC Online Del 4994*** and ***Sri Shankar Dongarisaheb Bhosale Vs. The State of Karnataka in Criminal Appeal No.1221 of 2017 decided on 09.01.2025.***

5. Per contra, Mr. Dawalkar, learned APP would submit that Section 54 of NDPS Act raises presumption from possession of illicit articles. The burden is upon accused to prove that he is innocent, once he is found in possession of contraband. The bail is exception in cases where contraband of commercial quantity is found in possession of

accused. The twin condition contemplated under section 37 of NDPS Act is applied to extend benefit of bail. In support of his contention, he relies upon observations of Supreme Court in case of ***Narcotics Control Bureau Vs. Kashif*** reported in ***(2024) 11 SCC 372*** and ***Bharat Aambale Vs. State of Chattisgarh*** reported in ***2024 SCC Online Chh 5424***.

6. Having considered submissions advanced by learned advocates appearing for respective parties and on consideration of contents of FIR and charge sheet, *prima facie*, it can be observed that the applicant was driver of tempo bearing Registration No. MH-20 BT 0951. The raiding party inspected vehicle. It was a small tempo. Alphrazolam/narcotic substance was found loaded in vehicle. Apart from applicant, one more person was occupying vehicle. In all 21 bags containing contrabands were found, 14 were containing white powder and 7 were containing crystalline substance. The chemical analyzer report confirms the contrabands to be a scheduled drug under NDPS Act, commercial quantity for which is above 100 grams.

7. The vehicle owner is one Laxman. He states that vehicle was given in possession of applicant. The evidence on record suggests that applicant had continuous conversation with other co-accused persons i.e. owner and manufacturer of contraband substance. In aforesaid backdrop, learned advocate appearing for applicant placed his reliance on observations of Delhi High Court in case of **Saneesh Soman** (supra). In that case, applicant/accused was alleged to have

made repeated calls to DTDC to enquire about parcel and, thereafter, he appeared in courier office and collected same and he was apprehended red-handed immediately after taking possession of parcel. However, the Court on examination found that phone numbers cited by prosecution allegedly used by applicant were belonging to DTDC Office. Further applicant was neither consignee of parcel nor package addressed to his residence. In this backdrop, Court observed that applicant was unaware of illicit contents of parcel, hence, application for bail was considered favourably. In case of **Sri Shankar Dongarisaheb Bhosle** (supra), applicant/accused was a taxi driver. He was carrying two passengers. On search of vehicle, 20 kilograms of Ganja was found in two visible bags. In this background, this Court observed that looking to conduct of applicant that he had not made efforts to run away or contrabands were not found to be hidden, considered case of grant of bail. One of major factor was that applicant had already suffered 7 years and 1 month incarceration.

8. In case of *Union of India Vs. Md. Nawaz Khan* reported in *(2021) 10 SCC 100*, the Supreme Court of India observed that standard of conscious possession would be different in case of a public transport vehicle with several persons as opposed to a private vehicle with a few persons known to one another. In present case, although it was a transport vehicle, applicant was occupying driver's seat. The goods loaded in vehicle were very well known to applicant. As rightly

pointed out by learned APP, Section 54 of NDPS Act raises presumption from possession of illicit article. At this stage, it is difficult to accept contention of applicant that it is not a case of conscious possession. It would be an issue to be decided at trial. This Court cannot be oblivious of provisions contained under Section 37 of NDPS Act, where offences is punishable with minimum sentence of 10 years, accused shall not generally be released on bail. In such case, bail is not rule but an exception.

9. In result, no case is made out to grant bail. Hence, bail application stands rejected.

(S. G. CHAPALGAONKAR, J.)