IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLN. NO. 467 OF 2026

Mohammed Kayum Akbar Ali Shaikh ……Applicant
Versus.
The State Of Maharashtra And Another ……Respondents

Ms. Munira Palanpurwala (Through V.C.), for Applicant.
Ms. Shubhangi N. Deshmukh, A.P.P., for Respondent Nos.1 and 2 - State.
Mr. Nagesh Kamble, LCB Sangli, present.

SHANTANU SHANKARSA DHUDUM
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Date: 2026.10.03 11:49:32 +0530

CORAM : ASHWIN D. BHOBE, J.
DATE : 1st OCTOBER, 2026.

P.C.

1. Heard, Ms. Munira Palanpurwala, learned Advocate for the Applicant and Ms. Shubhangi N. Deshmukh, learned A.P.P. for Respondent Nos. 1 and 2–State.

2. By this Application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”), the Applicant seeks Regular Bail in connection with Crime No. 52 of 2025 registered at Vita Police Station, District Sangli, for the offences punishable under Sections 8(c), 21(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

3. Ms. Munira Palanpurwala, learned Advocate for the Applicant, states that there are nine (9) accused in Crime No. 52 of 2025, with the Applicant being Accused No. 9. She further states that the said crime has been registered as Special Case No. 39 of 2025 and is pending before the Additional Sessions Judge, Vita, District Sangli (the "Trial Court").

4. In brief, the prosecution case is that the Police received secret information that Balraj Amar Katari (Accused No. 1) would be transporting and selling a narcotic substance (mephedrone) in a four-wheeler at Ram Krishna Hari Mauli Industries, Karve, MIDC, Vita. Accordingly, a raiding team was constituted and a raid was conducted at the said spot. During the raid, the driver (Prathamesh), Umesh Sote and Accused No. 1, who was travelling as a passenger in the said vehicle, were found in the said vehicle. Accused No. 1 was apprehended with mephedrone, concealed in a plastic bag kept inside a travelling bag, for the purpose of sale.

5. The Applicant was arrested on 2nd March 2025. The Bail Application filed by the Applicant at Exhibit-54 in Special Case No. 39 of 2025 was rejected by the Trial Court on 4th March 2026.

6. Ms. Munira Palanpurwala, learned Advocate for the Applicant, submits that the Applicant has been arrested in the present crime based on a statement made by a co-accused, Abdul Razzak Abdul Qadar Shaikh (Accused No. 5). She submits that there is no material in the entire charge-sheet to indicate the involvement of the Applicant in the present crime. She

further submits that no contraband was recovered from the possession of the Applicant and that the prosecution has not placed on record any material in the form of call detail records (CDRs) or financial transactions to indicate the involvement of the Applicant in the present crime. She, therefore, seeks indulgence of this Court and prays for grant of bail to the Applicant.

7. Ms. Shubhangi N. Deshmukh, learned A.P.P. for Respondent Nos. 1 and 2–State, opposes the Application and submits that the name of the Applicant was disclosed by Accused Nos. 5 and 8 during the investigation while they were in custody. She further submits that in addition to the statement made by the co-accused, the prosecution has relied on CDRs indicating that the Applicant was in contact with Accused No. 5 (Abdul Razzak Abdul Qadar Shaikh) and Accused No. 8 (Mahammad Ismail Mahammad Salim Khan). She submits that the Applicant has antecedents.

8. In response to the submissions made by Ms. Shubhangi N. Deshmukh, learned A.P.P., Ms. Munira Palanpurwala, learned Advocate for the Applicant, submits that the CDR's relied upon by the prosecution do not pertain to the period of the incident referred to in Crime No. 52 of 2025, or to the period immediately after registration of Crime No. 52 of 2025. She further submits that even if the said CDR's are taken into consideration, they pertain to the month of March 2025 and therefore have no connection

with the offence in Crime No. 52 of 2025. She submits that the Applicant has no antecedents in relation to any offence under the NDPS Act.

9. The record was perused with the assistance of the learned Advocates for the parties.

10. It is not disputed that the quantity of contraband involved in the present offence is commercial.

11. A perusal of the charge-sheet and the documents produced along with it, prima facie, does not indicate the involvement of the Applicant in Crime No. 52 of 2025. No contraband was recovered from the Applicant. As submitted by Ms. Munira Palanpurwala, learned Advocate for the Applicant and not controverted by Ms. Shubhangi N. Deshmukh, learned A.P.P., the Applicant is implicated in the present crime on the basis of a statement made by a co-accused while in police custody.

12. The Hon'ble Supreme Court in the case of T*ofan Singh vs. State of Tamil Nadu*[1] has observed as follows:

> *"158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.*

1 (2021) 4 SCC 1

158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act."

13. As submitted by Ms. Munira Palanpurwala, learned Advocate for the Applicant, the CDR's relied upon by Ms. Shubhangi N. Deshmukh, learned A.P.P., do not indicate any proximity to the date of the offence in Crime No. 52 of 2025. Even otherwise, the prosecution has not produced transcripts of any calls between the Applicant and the co-accused.

14. In the above circumstances, *prima facie*, there are reasonable grounds to believe that the Applicant is not involved in the offences in Crime No. 52 of 2025. Accordingly, the rigours of Section 37 of the NDPS Act would not apply. The Applicant is therefore entitled to bail.

15. At this stage, Ms. Shubhangi N. Deshmukh, learned A.P.P. for Respondent Nos. 1 and 2–State, submits that stringent conditions may be imposed on the Applicant.

16. In view of the above, this Application is allowed on the following terms and conditions:

ORDER

A) The Applicant-Mohammed Kayum Akbar Ali Shaikh, shall be released on bail in Crime No. 52 of 2025 registered at the Vita Police Station, District Sangli, upon furnishing a

P.R. Bond in the sum of Rs. 1,00,000/- (Rupees One Lakh Only), with two solvent sureties in the like amount, to the satisfaction of the Additional Sessions Judge, Vita, District Sangli, in Special Case No. 39 of 2025.

B) The Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing those facts to the Court or to any police officer. The Applicant shall not tamper with the evidence in any manner.

C) The Applicant shall report to the Investigating Officer on the 2nd Monday of each month from 10.00 a.m. to 12.00 p.m., commencing on 12th October 2026, until the conclusion of the trial in Special Case No. 39 of 2025.

D) Within three (3) days of his release, the Applicant shall surrender his passport, if any, to the Trial Court in Special Case No. 39 of 2025.

E) Upon his release, the Applicant shall, within three (3) days, furnish his cell phone number/ WhatsApp number and residential address, along with proof, to the Investigating

Officer, Vita Police Station, District Sangli, and shall keep the same updated in case of any change thereto.

F) The Applicant shall cooperate in the conduct of the trial and shall regularly appear before the Trial Court in Special Case No. 39 of 2025 on each date fixed, unless specifically exempted by the Trial Court. If the Applicant fails to appear before the Trial Court on any date fixed in Special Case No. 39 of 2025, it will be considered a breach of condition and the Trial Court will be at liberty to pass appropriate orders.

G) The Applicant shall not indulge in or be involved in any offence under the NDPS Act.

17. Criminal Bail Application No.467 of 2026 is disposed.

(ASHWIN D. BHOBE, J.)