HEMANT CHANDERSEN SHIV

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Date: 2026.10.05 11:50:45 +0300

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1257 OF 2026

Ramanand Ramashray Gound @ Ravi ...Applicant

V/s.

The State of Maharashtra ...Respondent

Mr. Atul S. Sarpande, Ravendra R. Shukla with Kamlesh Satre, Pankaj Sinha for the Applicant.
Mr. Vinod Chate, APP for the Respondent-State.
Mr. Avinash Darade, PSI, ANC, Kandivali Unit present.

CORAM: SHYAM C. CHANDAK, J.
DATED : 1st OCTOBER, 2026

P.C. :-

1. Heard learned Counsel for the parties. Perused the record.

2. Present Application seeks release of the Applicant on bail in NDPS Special Case No.2227 of 2025, registered with Kandivali Unit arising out of Cr. No.38 of 2025, registered with ANC, Kandivali Unit, Mumbai for the offences punishable under Sections 8(c) read with 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act").

3. The prosecution case is that, on 23rd April 2023, at about 21:45 hours, when the police team of ANC, Kandivali Unit including the informant – Narendra Rokde, Police Constable arrived near Times of India building, on Western Express Highway, the applicant was present there, near an electric pole. His conduct appeared suspicious. He was, therefore, accosted by Mr.Dhumal, Police Inspector and served with a notice u/S. 50 of the NDPS Act in the presence of two panchas. The applicant permitted Mr.Dhumal to take his personal search. The personal search of the applicant

was then conducted in the presence the panchas. A plastic bag containing 356 grams of 'Mephedrone' was found in the left side pant pocket of the applicant. Said contraband substance was seized under a panchnama. Accordingly, said crime was registered and, the applicant came to be arrested and charge-sheet came to be filed. The trial Court refused to release the applicant on bail.

4. Mr. Sarpande, learned Counsel for the applicant submitted that Section 50 of the NDPS Act was not properly complied with in this case before taking the personal search of the applicant. As a result, the search and seizure of the contraband is suspicious and vitiated. He submitted that the applicant is in jail for last 1 year and 5 months. In these circumstances, the applicant be released on bail.

5. In reply, Mr. Chate, the learned APP submitted that before carrying out the personal search of the applicant, he was served with a proper notice u/S. 50 of NDPS Act and, apprised that, he has a right of being searched before the nearest Gazetted Officer or a Magistrate as required in Section 50 of NDPS Act. However, the applicant refused to be taken before such authorities and permitted Mr.Dhumal to take his personal search. Accordingly, the search was conducted when the applicant was found in possession of the commercial quantity of the Mephedrone. However, the applicant has not shown that he is not guilty of the alleged offence. Therefore, the applicant is not entitled for bail.

6. I have considered these submissions. The main thrust of the submissions of Mr.Sarpande is that before effecting the personal search of the applicant, his response that he had understood his right of being searched before a Gazetted Officer or Magistrate; that he had waived his said right; and that, he may be searched by the empowered officer Mr.Dhumal, is not recorded in the notice nor in

the panchnama, by Mr. Dhumal. Consequently, it is doubtful that the applicant was informed of his right and that he had waived to exercise said right. This circumstance alone renders the search and seizure of the contraband suspicious and illegal.

7. The said notice u/S. 50 of NDPS Act reads as under :-

धारा ५०, एन.डी.पी.एस. ऑक्ट १९८५ तहत पत्र

वैभव विजय धुमाळ
पोलीस निरीक्षक,
अंमली पदार्थ विरोधी कक्ष,
गुन्हे शाखा, गु.उ.वि., मुंबई.
तारीख:– २३/०४/२०२५

प्रति,

रामानंद रामआश्रय गौड ऊर्फ रवी, वय २४ वर्ष, धं
दा– नोकरी (इव्हेन्ट मॅनेजमेंट), शिक्षण १२ वी,
रा.ठि.– शिवग चाळ, भीम नगर, दामू नगर,
आकुर्ली रोड, नालंदा बुध्द विहार जवळ,
कांदिवली (पू.), मुंबई ४००१०१.

"एन.डी.पी.एस. कायदा १९८५ के धारा ५० के तहत, आप अपनी तलाशी किसी नजदिक के दंडाधिकारी या राजपत्रित अधिकारी के सामने देने का आपको हक है। अगर आप ऐसी मांग करते हो, तो हम इंतजाम करेंगे।"

(वैभव धुमाळ)
पोलीस निरीक्षक
अंमली पदार्थ विरोधी कक्ष
कांदिवली युनीट, गु.शा. गु.अ.वि. मुंबई

समक्ष
Sign Eng.
(संतोष पाटील)
पोलीस उप निरीक्षक,
अंमली पदार्थ विरोधी कक्ष,
गुन्हे शाखा, गु.अ.वि., मुंबई.

पंच – १ (Sign Eng).

पंच – २ (Sign Eng).

8. The notice indicates that there was no ambiguity in it about informing the applicant of his right u/S. 50 of NDPS Act. As held in the case of **Ranjan Kumar Chadha v. State of H.P.**, reported in **2023 SCC OnLine SC 1262**, in paragraph 64 (ii), “Where, the person to be

searched declines to exercise this right, the police officer shall be free to proceed with the search. However, if the suspect declines to exercise his right of being searched before a Gazetted Officer or Magistrate, the empowered officer should take it in writing from the suspect that he would not like to exercise his right of being searched before a Gazetted Officer or Magistrate and he may be searched by the empowered officer."

9. In the case in hand, the notice of Section 50 bears the signature of the applicant, but, it does not contain his response thereto. Even though the panchnama bears the signature of the applicant, it is towards an acknowledgment about receipt of its copy. Therefore, impliedly, it appears that since the the applicant had declined his right of being searched before a Gazetted Officer or Magistrate, in the panchnama, the empowered officer/the Gazetted Officer Mr. Dhumal recorded that the police may take the personal search of the applicant. However, the said decline is not clearly recorded as enunciated in the case of **Ranjan Kumar Chadha (Supra)**. As a matter of record, since beginning Mr. Dhumal was present in the raiding party.

10. In the wake of above, prima facie, the search and seizure of the contraband from the possession of the applicant may be suspicious and vitiated on account of not properly recording the applicant's waiver of his right u/S. 50 of NDPS Act. The applicant has no criminal antecedents. Therefore, the rigours of Section 37 are not applicable to this case. The applicant is in jail for more than 19 months. There is no possibility of concluding his trial in near future.

11. As a result, the application is allowed. Hence, Order:-

(i) Applicant – Ramanand Ramashray Gound @ Ravi be released on bail in aforesaid FIR registered with ANC,

Kandivali Unit, Mumbai on his executing P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount.

(ii) The applicant shall mark his attendance at ANC, Kandivali Unit, Mumbai on 1st day of each month, between 11:00 a.m. to 2:00 p.m., till conclusion of the trial.

(iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(iv) The applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witnesses to prevent them from deposing against him.

(v) On being released from jail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(vi) The applicant shall not indulge in identical activities for which he has been arraigned in this case.

(vii) It is clarified that any observation made in the present order are for the purpose of deciding the present Bail Application. The trial Court shall decide the said case without getting influenced by any of the said observations.

12. At this stage, as requested by Mr.Sarpande, the applicant is granted four weeks time to furnish surety. Till then, the applicant be released on bail on his executing a P.R.Bond in the sum of Rs.1,00,000/- and depositing a sum of Rs.1,00,000/- in lieu of furnishing the surety bond. On furnishing such surety/ies, the amount of Rs.1,00,000/- shall be returned.

13. Bail Application stands disposed of in aforesaid terms.

(SHYAM C. CHANDAK, J.)