IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1655 OF 2026

Pradeep Shankar Jagtap .... Applicant
V/s.
The State of Maharashtra ...Respondent

Mr. Anil Lalla a/w. Adv. Yash Pulekar, Mr. Rushil Alag and
Mr. Dewang Ravat for the Applicant.
Ms. Veera Shinde, APP for the Respondent – State.

CORAM: SHYAM C. CHANDAK, J.
DATED : 15th OCTOBER, 2026

P.C. :-

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

2. The applicant seeks his release on bail in NDPS Special Case No.2149/2025 pending before the learned Special Judge for NDPS Cases, Gr. Mumbai arising out of Cr.No.34/2025 registered with Anti Narcotics Cell, Bandra Unit, Mumbai for the offence punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS"), on the report dated 13.04.2025 filed by Sandeep Talpe.

3. The prosecution case is that on 13.04.2025 at about 01:40 hours, when the police team of ANC, Bandra Unit was patrolling, the applicant – Pradeep Jagtap (A1) and Dayanand Shinde (A2) were found present on a footpath, in front of Sangai Heights building, Wadala (E). Seeing the police, they tried to flee, but, were accosted on the spot. Further, in the presence of panchas, the personal search of the applicant and A2 was conduced by giving prior notice under Section 50 of the NDPS Act. On search,

159 grams of Mephedrone was found in a ziplock packet, in the pant pocket of the applicant and 153 grams of Mephedrone was found in similar packet, in the pant pocket of A2. The said contraband was seized under a panchanama. Accordingly, the aforesaid crime came to be registered and both the accused were arrested. On completion of the investigation, police submitted the charge-sheet. The trial Court refused to release the applicant on bail. Hence, this application.

4. Mr. Lalla, the learned Counsel for the Applicant submitted that there is non-compliance of Section 50 of the NDPS Act. Therefore, the applicant is entitled for bail.

5. In reply, Ms. Shinde, the learned APP submitted that the material on record clearly indicate that both the accused were found in possession of the contraband. Before conducting their personal search, the notice under section 50 of the NDPS Act was served upon them and their response was recorded in accordance with the law. It is only thereafter the contraband was found when the personal search was conducted. As such, there is a prima facie case of possessing the commercial quantity of the contraband by the applicant and, considering the rigours of Section 37 of the NDPS Act, he is not entitled for bail.

6. I have considered these submissions. The Section 50 notice bears the signature of the applicant. However, the notice is silent as to whether the applicant had waived his right of being searched before a nearest Gazetted Officer or nearest Magistrate and permitted Mr. Keram, PI to conduct his personal search. In the search and seizure panchanama, it is stated that after receiving the notice under Section 50, both the accused only stated that there is no such requirement. However, what requirement they

had waived, is not clear. Therefore, from the said waiver it cannot be construed that the applicant had waived his right of being searched before a nearest Gazetted Officer or nearest Magistrate. The panchanama bears the signature of both the accused, but, towards receipt of its copy, not about the waiver of the right as noted above.

In **Ranjan Kumar Chadha v. State of H.P.,** reported in **2023 SCC OnLine SC 1262** the court in paragraph 66 (ii) categorically recorded that, "...(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. ...."

In this background, I am of the view that, there is non-compliance with the provisions of Section 50 (1) of NDPS Act. As a result, the search and seizure may be vitiated. The applicant has no criminal antecedents. As such, the applicant has made the twin-test as stated in the Section 37 of NDPS Act. Therefore, I am inclined to allow the application. Hence, following Order :-

(i) The applicant – Pradeep Shankar Jagtap be released on bail in NDPS Special Case No.2149/2025 pending before the learned Special Judge for NDPS Cases, Gr. Mumbai arising out of Cr.No.34/2025 registered with Anti Narcotics Cell, Bandra Unit, Mumbai on his executing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(ii) The applicant shall mark his attendance at Anti Narcotics Cell, Bandra Unit, Mumbai on 1st day of a month between 11:00 a.m. to 02:00 p.m., till conclusion of the trial.

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

(iv) 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.

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

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

(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.

8. Bail Application stands disposed of in aforesaid terms.

(SHYAM C. CHANDAK, J.)

PREETI HEERO JAYANI
Digitally signed by PREETI HEERO JAYANI
Date: 2026.10.17 15:46:42 +0530