IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1518 OF 2025

Hasnain Ismail Mansuri ...Applicant

V/S.

Union of India and Anr. ... Respondents

Mr. Taraq Sayed a/w. Ms. Ashwini Achari i/by Ms. Shafiya Shaikh, for the Applicant.
Ms. Supriya Kak, Spl.PP for Respondent No.1-UoI.
Ms. Veera Shinde, APP for Respondent–State.

CORAM: SHYAM C. CHANDAK, J.
DATED : 8th OCTOBER, 2026

P.C. :-

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

2. Ms. Kak, learned Spl. P.P., tendered the customer form and photocopies of the CDRs. The same are taken on record and marked as **'X'** for identification.

3. Present application seeks release of the applicant on bail in NDPS Special Case No. 298 of 2024, pending before the Additional Sessions Judge, Kalyan, which is arising out of File No. NCB/MZU/CR-09/2024, registered with the NCB Mumbai Zonal Unit, Mumbai for the offence punishable under Sections 8(c) read with Sections 22(c), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

4. The prosecution case is that, Inspector Mohan Rane, NCB, had received a secret information on 09.05.2024 that two persons, namely, Saif Shamshad Khan (A1) and Mumtaz Khan (A2) were involved in purchasing and selling Codeine Phosphate and

Chlorpheniramine Maleate Cough Syrups (Eskuf and Choco Plus Brands) and Nitrazepam tablets in huge quantities. They had purchased a substantial quantity of the contraband from one of their known sources from Gulbarga (Kalaburagi) and, they were returning to Kalyan by Egmore-Chennai-Mumbai Express, carrying one maroon-coloured bag and one black-coloured backpack containing said contraband. The informer also provided necessary description of A1 and A2. Accordingly, a trap was laid at the platform of the railway station and, when the train arrived, the NCB Officers identified A1 and A2 after they alighted from the train carrying the aforesaid bags. A1 and A2 were intercepted in the presence of panchas and, the bags held by them were searched. Total 250 bottles of Codeine Phosphate, each containing 100 ml of the contraband and 2100 Nitrazepam tablets, weighing 1.155 Kgs were found in the bag held by A1. Similarly, 20 such bottles of the same contraband and 1500 Nitrazepam tablets, weighing 0.825 Kgs were found in the bag in the possession of A2. The said contraband was seized. The mobile phones and other articles found on the person of A1 and A2 respectively also seized. Accordingly, the aforesaid crime came be registered and both the accused were arrested.

The statements of A1 and A2 recorded under Section 67 of the NDPS Act brought out that they had travelled to Gulbarga along with the applicant and one wanted accused, Nabil Mansoori. The applicant and Nabil Mansoori received the two contraband substance from some persons at Kalaburagi. Further, they handed over part of that contraband to A1 and A2 and, then the applicant and Nabil Mansoori moved to Mumbai along with the rest of the contraband. A1 and A2 also disclosed that they were to had

handed over said entire contraband to co-accused Aslam Jilani Qureshi.

During investigation, police collected the CDRs of the mobile phones used by the accused persons. The CDRs indicate that, on 8th and 9th May 2024, the applicant had travelled to Gulbarga alongwith A1 and A2 and the three were present together at Gulbarga. Even on the date of seizure of the contraband, the three were in contact with each-other. The statement of the applicant recorded under Section 67 tallied with such statement of A1 and A2. Therefor, the applicant came to be arrested for the charge of Section 29 of the NDPS Act. On completion of investigation, a complaint was filed before the trial Court. The said Court rejected the applicant's prayer for bail.

5. Ms. Achari, learned Advocate for the applicant submitted that, except for the CDRs and statements of the co-accused including the applicant, there is no independent and admissible evidence against the applicant, showing that, he had travelled to Gulbarga along with A1 and A2 for procurement of the contraband. She submitted that, admittedly, the applicant did not travel back to Kalyan along with A1 and A2. Therefore, even if the CDRs are admitted or go unchallenged on behalf of the applicant, his conviction under Section 29 of the NDPS Act is not possible. She, therefore, claims that the applicant is not guilty of the alleged offences and is entitled to bail.

6. Ms. Kak, the learned SPP for the Respondent, on the other hand, submitted that at the relevant time, the applicant was using mobile No. 81*** ***41. Said mobile number is registered in the name of the applicant. Between December 2023 and May 2024,

the applicant and the co-accused persons had exchanged a large number of phone calls. At the relevant time, the location of the aforesaid mobile number was at Kalyan and Gulbarga. The statements recorded u/S. 67 of the NDPS Act clearly show that the three accused had travelled to Gulbarga only to procure the contraband through the applicant. After procurement of the contraband, the applicant travelled back to Mumbai *via* Solapur to avoid getting caught by police. The applicant has not explained these circumstances. Therefore, there is a prima facie case against the applicant of having committed this offence in conspiracy with the other accused. Since the offence involving commercial quantity of the contraband and the applicant has failed to explain the same, the rigours of Section 37 of the NDPS Act are attracted with full force. As a result, bail be refused.

7. I have considered these submissions. Record indicates that, at the relevant time, mobile No. 81xxx xxx41 was registered in the name of the applicant. Further, on 8th and 9th May 2024, the mobile location of the mobile phones of A1, A2 and said mobile No. 81xxx xxx41 was at Mumbai to Gulbarga. However, the mobile phone of the applicant containing the SIM bearing mobile No. 81xxx xxx41 is not seized. Except the statements of the A1, A2 and the applicant, there is no other independent evidence to show that the applicant was using that mobile No. Be that as it may. There is also no independent evidence that on 8th and 9th May 2024, the applicant was seen while travelling with A1 and A2 and that, the three were together at Gulbarga during that period. Therefore, in the facts of the case, whether the applicant had travelled to Gulbrga along with A1 and A2 and procured the contraband, is a

question of trial. No contraband is seized from the possession of the applicant. The applicant has no criminal antecedents.

8. The net result of the aforesaid discussion is that, the applicant has satisfied the twin conditions stated in Section 37 of the NDPS Act. That apart, the applicant is in jail for last more than two years. The trial has not advanced. Admittedly, no contraband is seized from the possession of the applicant. The presumption of innocence is in favour of the applicant. The incarceration of the applicant must be causing him hardship which is against his right under Article 21 of the Constitution of India.

9. Therefore, I am inclined to allow the application. Hence, following Order :-

(i) The applicant- Hasnain Ismail Mansuri, be released on bail in the aforesaid NDPS Special Case No. 298 of 2024, pending before the Additional Sessions Judge, Kalyan, arising out of C.R. No. NCB/MZU/CR-09/2024, registered with the NCB Mumbai Zonal Unit, Mumbai, on his executing a P.R. Bond in the sum of Rs.1,00,000/- with one or more sureties in the like amount.

(ii) The applicant shall mark his attendance at NCB Mumbai Zonal Unit, Mumbai, on 1st day of a month, once in a four months, between 11:00 a.m. to 2:00 p.m., till conclusion of the trial.

(iii) The applicant shall not reside within the jurisdiction of Thane and Mumbai Districts till the conclusion of

the trial, except for attending the proceedings before the Trial Court.

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

(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) 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.

(viii) 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.

10. Bail Application stands disposed of in aforesaid terms.

(SHYAM C. CHANDAK, J.)

SANJAY ASARAM MANDAWGAD
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