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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2432 OF 2026

Rakesh Ashok Kadam ...Applicant

V/s.

The State of Maharashtra ...Respondent

Mr. Nilesh S. Bangar for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent-State.
Mr. Prakash Ghadge, PSI, Sir J J Marg police station present.

CORAM: SHYAM C. CHANDAK, J.
DATED : 7th OCTOBER 2026

P.C. :-

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

2. Mr.Bangar, learned Counsel for the applicant tendered affidavit of criminal antecedents of the applicant. It is taken on record and marked "X" for identification.

3. Present application seeks release of the applicant on bail in Special Case No.258 of 2026 in connection with Cr. No.1105 of 2025, registered with Dharavi police station, Mumbai for the offence punishable under Sections 8(c), 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act") on the report dated 2nd October 2025 filed by the informant.

4. The prosecution case is that, on 2nd October 2025, at about 18:15 hours while police team of Dharavi police station, Mumbai arrived at Last Khadi Maidan, Rajiv Gandhi Nagar, Accused No.1 and the applicant were present there. The applicant was holding a plastic bag, when he saw the police, he gave the said bag to Accused No.1, therefore, police accosted both of them and in presence of

panchas searched the applicant and A1, and a bag was found with them with 18 bottles of 100 ml each containing Codeine Phosphate based cough syrup. The said contraband was seized and accordingly, present crime came to be registered and both accused persons were arrested. On completion of the investigation, the charge-sheet came to be filed. The trial Court refused to grant the bail to the applicant. Hence, this application.

5. Mr.Bangar, learned Counsel for the applicant submitted that, the applicant is behind bars since the date of his arrest on 2nd October 2025. However, the case has not progressed. Therefore, bail may be granted on the ground of prolonged incarceration.

6. Mr.Dedhia, learned APP submitted that the applicant and A1 were found in possession of commercial quantity of the contraband. The applicant has not shown that, *prima facie*, he is not guilty of the said offence. Therefore, he is not entitled to be released on bail.

7. I have considered these submissions. Considering the material on record, in my view, there is a *prima facie* case against the applicant of having possessed the said contraband substance. However, it cannot be ignored that the applicant is in jail for last 1 year. Till date, the charge is not framed. The prosecution is going to examine 13 witnesses. Therefore, the trial is not likely to commence and conclude within foreseeable period. The applicant has only one criminal antecedent under Section 392 of IPC, when he was minor. Consequently, the continued detention of the applicant in jail, may turn punitive. The applicant is not likely to abscond and tamper with the prosecution witnesses.

8. In the case of **Anandbhai Rajendrabhai Vaniya v State of Gujarat** Criminal Appeal No. 859/2025 arising out of [SLP (Crl.)

No.17042/2024], as alleged, the appellant was driving the car from which 995 bottles of RX Codeine Phosphate & Triprolidine Hydrochloride syrup were seized. The appellant had figured in eight cases, discharged in five cases, acquitted in two cases and in the other remaining case, he was on bail. Considering the period of the appellant's incarceration (17 month), the nature of allegations levelled against him, and the possibility of the trial not being concluded anytime soon, the Hon'ble Apex Court released the appellant on bail.

Similarly, in the case of **MD Ezaz Afzal & Anr. v. State of W.B** SLA (Crl.) 12419/2024, the petitioners were arrested on 10.12.2023 as 1920 bottles of codeine phosphate syrup were seized from them. The trial was not commenced. No witness was examined, though 14 were cited by the prosecution. Taking note of the quantity of codeine phosphate syrup allegedly involved in the case and, the period of incarceration (11 months) already undergone by the Petitioners, the Hon'ble Apex Court released them on bail.

9. In the wake of above, the applicant is entitled for bail. Hence, following Order is passed:-

(i) The applicant – Rakesh Ashok Kadam be released on bail in aforesaid FIR registered with Dharavi police station, Mumbai on his executing 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 Dharavi police station, Mumbai on 1st day of each calender 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 unless exempted by the said Court, for the reasons to be recorded in writing.

(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 and should not influence the out come of the trial and also not be taken as an expression of opinion on the merits of the case.

10. Bail Application stands disposed of in aforesaid terms.

(SHYAM C. CHANDAK, J.)