WAKLE MANOJ JANARDHAN
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3634 OF 2025

Ankil Jagdishchandra Kholwadwala ...Applicant

V/s.

Union of India & Anr. ...Respondents

WITH
CRIMINAL BAIL APPLICATION NO.2182 OF 2026

Sumit Mayyar S/o Satish Mayyar ...Applicant

V/s.

Union of India
Through Inspector Narcotics Control Bureau
Mumbai Zonal Unit, Mumbai ...Respondent

Mr. Ramesh Tripathi a/w Adv. Shruti Tripathi, Adv. Kushal Tripathi & Adv. Nidhi Sharma i/by M/s. Ramesh Tripathi & Associates, for the Applicant in BA/3634/2025.
Mr. Aabad Ponda, Senior Counsel a/w Adv. Prasannan Namboodiri, Adv. Prathibha Namboodiri, Adv. Rishabh Sinha & Adv. Nakshatra Mahadik, for the Applicant in BA/2182/2026.
Mr. S. K. Halwasia, SPP a/w Ms. S.S. Halwasia, for the Respondent- UOI in both Applications.
Mr. H. J. Dedhia, APP for the Respondent-State in both Applications.

CORAM: SHYAM C. CHANDAK, J.
DATED : 22nd OCTOBER, 2026

P.C. :-

. Heard learned counsel for the parties, perused the record, considered the written submissions and the cited reported cases.

2. Applicants seeking their release on bail in connection with NDPS Special Case No.132 of 2023, pending before the Additional Session Judge, Bhiwandi. The said case has been registered on the complaint filed by Respondent No.1 UoI in its crime bearing NCB

F. No. NCB/MZU/CR-04/2023, for the offence punishable under Sections 8(c), 21(c), 22(c), 28 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"),

3. The prosecution case is that, acting on a secret information, a team of the NCB MZU Mumbai in the presence of two pancha witnesses intercepted accused No.1 Fakruddin Momin (A1) along with one vehicle bearing Reg. No.GJ 05 CT 2484, on 28.03.2023, near Maharashtra Gadi Karkhana, Rawdi stop, Wada, Bhiwandi Road, Tehsil Bhiwandi, Dist-Thane and, after the search procedure, the NCB team seized of 3195 bottles, each containing 100 ml Chlorpheniramine Maleate & Codeine Phosphate Monocoff-Plus Cough Syrup ("CBCS") from the conscious possession of A1, under panchnama dated 28.03.2023. Further, in connection with the above mentioned seizure, notice u/S. 67 of NDPS Act was issued to A1, Imran Aslam Divkar (A2), applicant Ankil Kholwadwala (A3) and Giridhar Shivram Chatury (A4) on 28.03.2023 and, their statement U/s.67 of NDPS Act were recorded on the same day. Therein, they voluntarily disclosed their role and involvement in procurement, possession, transportation, sell, purchase and becoming party to a conspiracy related to the seized 3195 bottles of CBCS. Accordingly, the NCB registered the said the offence and arrested the A1 to A4. Investigation revealed the involvement of Jagdish Kholwadwala (A5), who also confirmed that fact in his voluntary statement u/S.67 dated 29.03.2023.

Further, A3 revealed that one more parcel bearing AWB No.100002905505, containing 35 Boxes of the same CBCS bottles, which was ordered by him from the same firm namely 'CAPTAB', was lying at one parcel office named Safe Express Logistics Park, Mumbai, Nashik Highway, NH-3, Walshind Lonad, Bhiwandi. On

the basis of that lead, the follow up operation was conducted by the NCB team visiting the said place and, it resulted in seizure of the 35 carton boxes, containing total 3500 Bottles, each containing 100 ml of the same CBCS, under Panchnama dated 03.04.2023.

It is alleged that, the seized drugs were supplied to A3 by M/s.Captab Biotech, Plot No. D-235, 3rd Floor, Phase-8B, Mohali, Pin-160071 R/o House No.651, Phase-II, Mohali, Punjab-160056. Applicant Sumit Mayyar S/o Satish Mayyar (A6) is the proprietor of M/s.Captab. After repeated notices u/S.67 of NDPS Act, finally, A6 appeared before the Investigation Officer on 16.09.2025, at NCB, MZU. In his voluntary statement, A6 admitted that he had illicitly supplied the consignments of the seized CBCS to A3, in the name of a firm 'M/s.The G Next Agency ("M/s.G Next", for short), whose drug license & GST license were already cancelled in the month of December 2022 by Government Authorities. Therefore, A6 was arrested on 16.09.2025 for his involvement and in the conspiracy to commit the present offences of possession, inter-state transportation, selling of manufactured drugs and psychotropic drugs under NDPS Act.

On completion of investigation, the NCB filed the said case before the Special Court which rejected the Bail Applications of both these applicants.

4. Earlier, A3 had filed B.A. No.5353/2024 before this Court, but, it was withdrawn on 27.03.2025 as the Court was not inclined to grant that Bail Application. Therefore, A3 has filed the present B.A. No.3634/2026 on the ground of prolonged incarceration and contending that, the Reports of C.A. do not specify the actual percentage/active content of the Codeine in the seized substance. Therefore, it is not clear as to whether this case is of the small,

intermediate or commercial quantity of the contraband substance. The A6 has been seeking the bail, mainly on the ground of ignorance of the cancellation of the FDA licence of M/s.G Next and that, the seized CBCS is falling under an exception, therefore, he is not guilty of the offence.

4.1 Mr. Tripathi, the learned Advocate has relied upon following reported cases to accept his submissions.

Vibhor Rana vs. Union of India	2021 SCC OnLine ALL 908
Shivam Shukla vs. State of HP	2025 SCC OnLine HP 5966
Deepak Yadav vs. State of Bihar	2026 SCC OnLine Pat 6078

4.2 Mr. Ponda, the learned Senior Counsel has relied upon the following reported decisions to support the case of A6.

Vibhor Rana vs. Union of India	2021 SCC OnLine ALL 908
Ajay Gupta vs. State of MP	2017 SCC OnLine MP 1667
Sandeep Kumar vs. State of Punjab	2012 SCC OnLine P&H 9272
Rajeev Kumar vs. State of Punjab	1997 SCC OnLine P&H 1232
Pawan Arora vs. State (Govt. of NCT of Delhi)	2023 SCC OnLine Del 522
Amrik Singh vs. State of Punjab	1996 SCC OnLine P&H 496
In Re: Sanjib Islam Gazi @ Sanjib Gazi	2017 SCC OnLine Cal 9383
Ashok Kumar vs. Union of India	Case No. 2976 of 2014
Kamal Nayan Pandey vs. State of MP	2016 SCC OnLine MP 10309
Rohit Chadha vs. State of MP	2015 SCC OnLine MP 7496
Pankaj Shukla vs. Union of India	2016 SCC OnLine Cal 4063
Union of India vs. Shiv Shankar Kesari	(2007) 7 SCC 798

Mohd Muslim @ Hussain vs. State (NCT of Delhi)	SPL(CRL) NO(S). 915 of 2023
Union of India vs. Rattan Mallik	(2009) 2 SCC 624
Raghav Saini vs State of HP	2023 SCC OnLine HP 1829
Kamal Gupta vs. State of Bihar	2026 SCC OnLine Pat 1558
Bhola Rai vs. State of Bihar	2026 SCC OnLine Pat 1622
Binod Kumar vs. State of Bihar	(2018) 14 SCC 199
MD. Sahabuddin & Anr vs. State of Assam	(2012) 13 SCC 491

4.3 Mr. Halwasia, the learned SPP has cited following reported cases to countenance his contentions.

United States Supreme Court Turner vs. United States	0 396 US 398
MD. Sahabuddin & Anr vs. State of Assam	(2012) 13 SCC 491
Mohd Ahsan vs. Customs	2022 SCC OnLine Del 2910
Hira Singh & Anr vs. Union of India & Anr	(2020) 20 SCC 272
Nasir Husain vs. State of M.P.	Cr. Mp(M) No.319 of 2024
Ajit Mondal vs. State of West Bengal	2017 Supreme (Cal) 920
Director of Revenue Intelligence vs. Raj Kumar Arora	(2026) 2 SCC 401
H.S. Arun Kumar vs. State of Goa	2022 SCC OnLine) 4696

5. Considering the rival submissions and the material on record, what this Court has prima facie found is thus :

That, in April-July 2022, Dr. Paresh Patel and A3 were doing a business in the name of M/s.G Next of which Dr. Paresh Patel was a proprietor. Said business was conducted as per the FDA License and GST No. in the name of M/s.G Next. Said GST

No. and the Licence was cancelled/surrendered in October-December 2022.

That, A6 is owner of the proprietary concern M/s.Captab Biotec and holding a Drug License for trading in Pharmaceutical Products including Codeine Phosphate Based Syrup ("CBCS") falling under Schedule H-1 of the Drugs & Cosmetics Act 1945.

That, M/s.Captab Biotec had purchased the said CBCS from its licenced manufacturer M/s.Three B Healthcare Ltd., who were holding the necessary Drug License for manufacture of said CBCS.

That, A3 had asked for the said two consignments of the CBCS and M/s. Captab had supplied 5000 and 3500 (100 ml) bottles of the CBCS *vide* GST Invoice and E-Way Bill on payment of appropriate GST, by booking it through Patanjali Parivahan Pvt Ltd and Safe Express for delivery at the Surat address of M/s.G next as appearing in their Drug License.

However, A3 had paid the price of said consignments from his personal bank account in the bank account of M/s.Captab.

That, the Respondent-NCB has not refuted the submission by Mr. Ponda, the learned Senior Counsel that Dr. Paresh Patel, proprietor of M/s.G Next had sent an email to 'CAPTABBIOTECHPHARMA@gmail.com' on 17.12.2022, which is the email of M/s.Captab Biotec Unit-II. Thereby, intimating about cancellation of the drug licence, GST of M/s. G Next and not to make any transaction with M/s.G Next and with A3. That a reply dated 22.12.2022 was received from 'M/s.CAPTAB BIOTECH UNIT-II' captabbiotechpharma@gmail.com informing that the email dated 17.12.2022 is not concern to their company as they are

the manufacturer not the marketing company. The reply email is from 'Kapish Goel', Managing Director and it also gives reference to 'MD. Pawan Goel'. That, the email id of the A6's proprietary concern 'M/s.Captab Biotec' is captabltd@gmail.com. Thus, the email dated 17.12.2022 of Dr. Paresh Patel, Proprietor of M/s. G Next and its reply dated 22.12.2022 indicate that the email was sent to the email id of M/s.Captab Biotech Unit-II.

That, the website of M/s.Captab Biotec Unit-II states that, it is run by Mr. Pawan Goel, Mr. Sushil Goel and Mr. Kapish Goel. Out of these three names, the names of Mr. Kapish Goel and Mr.Pawan Goel are appearing in the email dated 17.12.2022 of Dr.Paresh Patel, Proprietor of M/s. G Next.

That, the address of M/s. Captab Biotech Unit-II is Plot No.-125, E.P.I.P. Road, Mauja Jharmajri, Baddi, Solan, (Himachal Pradesh) 173205 and email id captabbiotechpharma@gmail.com, whereas the address of M/s.Captab Biotec of the A6 is Plot No. D-235-C, Phase VIII-B, Mohali, Punjab. That as per the relevant GST Registration Certificate, Shubham Goel and Kapish Goel are the 'Managing/Authorised Partners' of M/s.Captab Biotech Unit-II.

That, *vide* Sale Agreement dated 17.07.2009 between M/s. A.G. Industries and M/s. Captab Biotech Unit No.II, through A6, Sh. Ramandeep Singh S/o Sh. Shamsher Singh & Smt. Harsimran Kaur W/o Sh. Jagjit Singh, the Dy. Director of Industries, Solan, H.P., by his letter dated 05.09.2009, had granted permission to transfer the lease hold rights of Plot No.125, EPIP Phase-I, Jharmarji, Baddi from M/s. A.G. Industries in favour of M/s. Captab Biotech Unit-II. It is followed by the supplementary Lease Deed dated 11.11.2009, between the Dy. Director of Industries, Single Window Clearance Agency, Baddi and M/s. Captab Biotech

Unit-II through its partners A6, Sh. Ramandeep Singh & Smt. Harsimran Kaur for transfer of the lease of said Plot No.125, Mauja Jharmajri, Baddi from M/s. A.G. Industries to M/s.Captab Biotech Unit-II.

Vide Partnership-cum-Retirement Deed dated 16.08.2014 the then existing partners A6, Sh. Ramandeep Singh & Smt. Harsimran Kaur had retired from M/s. Captab Biotech Unit-II and Sh. Shubham Goel & Smt. Tanvi Goel were inducted as new partners in Captab Biotech Unit-II.

The letter dated 17.03.2015 from Dy. Director of Industries, Single Window Clearance Agency, Baddi addressed to the Commissioner of Industries, Himachal Pradesh informed that as per the MOU dated 04.08.2014, Mrs. Tanvi Goel and Shubham Goel have taken over the running unit M/s.Captab Biotech Unit-II situated at Plot No.125, EPIP Road, Mauja Jharmajri, Baddi and the land measuring 13 Biswa bearing Khasra No.669/163/2/1 adjoining to Plot No. 125 from the then existing partners *viz*., A6, Sh. Ramandeep Singh and Sh. Mrs. Harsimran Kaur.

That, pursuant to the letter dated 14.05.2015 from Dy. Director of Industries, Single Window Clearance Agency, Baddi addressed to M/s.Captab Biotech Unit-II and the supplementary Lease Deed dated 19.05.2015 executed by Governor of Himachal Pradesh through Dy. Director of Industries, Single Window Clearance Agency, Baddi and Captab Biotech Unit-II through Sh. Shubham Goel , the change of partners of M/s. Captab Biotech Unit-II from A6 (33.33% share), Sh. Ramandeep Singh (33.33% share) & Smt. Harsimran Kaur (33.33% share) to Sh. Shubham Goel (90% share) & Smt. Tanvi Goel (10% share), has been taken on record.

6. Mr. Ponda, the learned Senior Counsel appearing for A6 has submitted that, the seized CBCS is neither Manufactured Drug nor Essential Narcotic Drug. Said CBCS, marketed by A6 (M/s.Captab Biotec), was satisfying all the four conditions *viz*., (i) compounded with another ingredient (chlorpheniramine Maleate), (ii) Codeine content less than 100 mg per dosage unit; (iii) concentration not more than 2.5% in undivided preparations; and (iv) established in Therapeutic practice. As such, it is falling under exception at Sr. No.35 of the Manufactured Drugs Notification and also under the exception of 'Essential Narcotic Drug'. Hence, the CBCS would be governed by the Drugs & Cosmetics Act 1945 and rules made thereunder and not by the NDPS Act 1985.

6.1 Said submission is adopted by Mr. Tripathi, the learned Advocate appearing for A3. Additionally, Mr. Tripathi has contended that, the Reports of C.A. do not specify the actual percentage of the Codeine in the seized substance. Therefore, it is not clear as to whether this case is of the small, intermediate or commercial quantity of the contraband substance.

However, I am not in unison with the said submissions by Mr. Tripathi. Because, on the earlier occasion, when the Bail Application of A3 was withdrawn, the concentration of the Codeine in the seized substance was not disputed nor the fact that it was purchased from A6. Secondly, according to A3 he was involved in the legitimate business of the said drug, but, it is not pointed as to why A3 used to purchase that drug when it was not specifying the necessary ingredients for "Therapeutic Practice", thus, not meeting his business objective.

7. Considering the revelation stated in the paragraph 4 above, the submissions made by Mr. Ponda, the learned Senior Counsel

and the other material on record, it appears that, since 2014, the A6 was not related with M/s. Captab Biotech Unit-II. Further, the seized CBCS was marketed by A6's proprietary concern "M/s.Captab Biotec", and that, (i) it was compounded with another ingredient (chlorpheniramine Maleate), (ii) its Codeine content was less than 100 mg per dosage unit; and (iii) its concentration was not more than 2.5% in undivided preparations; and (iv) established in Therapeutic practice.

8. However, said facts themselves are not sufficient to accept the case of A6 that, before supplying the CBCS, he/A6 had verified the necessary licence of Dr. Paresh Patel or A3; that A6 was not aware that the said licence of Dr. Paresh patel was cancelled; that, A3 had suppressed that fact; that, A3 had placed valid/lawful Orders for supply of the CBCS; that, the supply of the CBCS - total 6695 bottles, were intended for "Therapeutic practice"; and that, it is falling under the exception carved out in Entry no. 35 in the notification titled "Manufactured Narcotics Drug" (as contained in Government of India Notification No. S.O. 826 (E) dated 14.11.1985 and S.O. 40 (E) dated 21.09.1993 and S.O. no. 1431 (E) dated 21.06.2011) and also under the exception of 'Essential Narcotic Drug'. Hence, the subject matter CBCS bottles would be governed by the Drugs & Cosmetic Act, 1945 and the Rule made thereunder and not by the NDPS Act.

9. In this regard, Section 9 (1) (a) (va) of the NDPS Act provides as under:

> "***9. Power of Central Government to permit, control and regulate***.— *(1) Subject to the provisions of Section 8, the Central Government may, by rules—*

> *(a) permit and regulate— xxx (va) the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of essential narcotic drugs: Provided that where, in respect of an essential narcotic drug, the State Government has granted licence or permit under the provisions of Section 10 prior to the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014, such licence or permit shall continue to be valid till the date of its expiry or for a period of twelve months from such commencement, whichever is earlier.*
>
> *xxx xxx xxx xxx*"

9.1 In **Mohd. Ahsan vs. Customs** (*Supra*), while deciding the reference, the Division Bench of the Delhi High Court in paragraph 43 observed and held that :

> "**43**. The aforesaid sub-clause (va) was introduced by the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014 (No. 16 2014), which came into effect on 01.05.2014. The said amendment was introduced subsequent to the judgment of Hon'ble Supreme Court in Mohd. Sahabuddin's case (supra). A bare reading of the said amended provision shows that the same was introduced in the NDPS Act authorizing the government to permit and regulate the manufacture, possession, transport, import interstate, export interstate, sale, purchase, consumption and use of the "essential narcotic drugs". The term 'essential narcotic drugs' has not been defined in the NDPS Act. However, exercising powers under Section 9(1)(a)(va) of the NDPS Act, the Central Government vide notification dated 05.05.2015 (w.e.f. 05.05.2015) added Chapter –VA to The Narcotic Drugs and Psychotropic Substances Rules 1985 (hereinafter "NDPS Rules"). Rule 52A of the said Chapter provides as under:

"***52A. Possession of essential narcotic drug.***— *(1) No person shall possess any essential narcotic drug otherwise than in accordance with the provisions of these rules. (2) Any person may possess an essential narcotic drug in such quantity as has been at one time sold or dispensed for his use in accordance with the provisions of these rules. (3) A registered medical practitioner may possess essential narcotic drug, for use in his practice but not for sale or distribution, not more than the quantity mentioned in the Table below, namely—*

TABLE

Sl. No.	Name of the essential narcotic drug	Quantity
(1)	(2)	(3)
1.	Morphine and its salts and all preparations containing more than 0.2 per cent of Morphine	500 Milligrammes
2.	**Methyl morphine (commonly known as "Codeine") and Ethyl morphine and their salts (including Dionine), all dilutions and preparations except those which are compounded with one or more other ingredients and containing not more than 100 milligrammes of the drug per dosage unit and with a concentration of not more than 2.5% in undivided preparations and which have been established in therapeutic practice**	**2000 Milligrammes**
3.	Dihydroxy Codeinone (commonly known as Oxycodone and Dihydroxycodeinone), its salts (such as Eucodal Boncodal Dinarcon Hydrolaudin, Nucodan, Percodan, Scophedal, Tebodol and the like), its esters and the salts of its ester and preparation, admixture, extracts or other substances containing any of these drugs	250 Milligrammes
4.	Dihydrocodeinone (commonly known as Hydrocodone), its salts (such as Dicodide, Codinovo, Diconone, Hycodan, Multacodin, Nyodide, Ydroced and the like) and320 Milligrammes its esters and salts of its ester,	320 Milligrammes

	and preparation, admixture, extracts or other substances containing any of these drugs	
5.	1-phenethyl-4-Npropionylanilino-piperidine (the international nonproprietary name of which is Fentanyl) and its salts and preparations, admixture, extracts or other substances containing any of these drugs	Two transdermal patches one each of 12.5 microgram per hour and 25 microgram per hour:

Provided that the Controller of Drugs or any other officer authorised in this behalf by him may by special order authorise, in Form 3-B, any such practitioner to possess the aforesaid drugs in quantity larger than as specified in the above Table:

Provided further that such authorisation may be granted or renewed, for a period not exceeding three years at a time.

Explanation.—The expression "for use in his practice" covers only the actual direct administration of the drugs to a patient under the care of the registered medical practitioner in accordance with established medical standards and practices.

xxx xxx xxx" (emphasis supplied)

10. Having considered Section 9 of NDPS Act and Rule 52A of the NDPS Rules together, in paragraphs 46, 47 and 48, the Division Bench has observed and held that :-

"46. As mentioned earlier, the term 'essential narcotic drugs' has not been defined under the NDPS Act but the table in Rule 52A, SubRule (3), at serial no.2, under the title "Name of essential narcotic drug" gives a description of Methyl Morphine (commonly known as "Codeine"), which is an exact verbatim copy of Entry no. 35 in notification titled "Manufactured Narcotics Drug" (as contained in Government of India Notification No. S.O. 826 (E) dated 14.11.1985 and S.O. 40(E) dated 21.09.1993 and S.O. no. 1431 (E)

dated 21.06.2011). A combined reading of Rule 52A of The NDPS Rules and Entry no. 35, in the aforementioned notification, would demonstrate that the exception carved out in Entry no. 35, of the aforesaid notifications, with respect to codeine, has been further qualified by way of its inclusion under the category of "essential narcotic drug" under Section 9(1)(a)(va) of the NDPS Act 1985. In our considered opinion, Rule 52A further regulates the manner of possession and other related activities enumerated therein, with respect to substances/preparations covered under the aforesaid Entry 35.

*47. Section 21 of the NDPS Act provides for prosecution for contravention of any of the provision of the NDPS Act or any Rule made thereunder. Needless to say that Rule 52A clearly prohibits any person from possessing any '***essential narcotic drug'** *otherwise than in accordance with the provisions of the rules made thereunder. The amended provision i.e. Section 9(1)(a)(va) of the NDPS Act and the rules made thereunder clearly and unequivocally declare that any substance covered under the description given in the Table to Rule 52A(3) would be considered as an '***essential narcotic drug'***, even if the said substance is otherwise covered under The Drugs and Cosmetic Act including cough syrup containing codeine phosphate.*

48. The aforesaid interpretation is supported by a judgment rendered by the Hon'ble Supreme Court in Union of India and Anr. vs. Sanjeev V. Deshpande (2014) 13 SCC 1, wherein it was held as follows:

> *"25. In other words, DEALING IN narcotic drugs and psychotropic substances is permissible only when such DEALING is for medical purposes or scientific purposes.* ***Further, the mere fact that the DEALING IN narcotic***

> ***drugs and psychotropic substances is for a medical or scientific purpose does not by itself lift the embargo created under Section 8(c). Such a dealing must be in the manner and extent provided by the provisions of the Act, Rules or Orders made thereunder. Sections 9 and 10 enable the Central and the State Governments respectively to make rules permitting and regulating various aspects*** *(contemplated under Section 8(c), of DEALING IN narcotic drugs and psychotropic substances.*
>
> *26. The Act does not contemplate framing of rules for prohibiting the various activities of DEALING IN narcotic drugs and psychotropic substances. Such prohibition is already contained in Section 8(c). It only contemplates of the framing of Rules for permitting and regulating any activity of DEALING IN narcotic drugs or psychotropic substances.*

10.1 In the backdrop, the Division Bench answered the Question No.1 of the reference that, "If the contraband recovered in a particular case is covered by Rule 52A of the NDPS Rules made under Section 9(1)(a)(va) of the NDPS Act, then violation of the said Rules would be punishable under the NDPS Act. In that situation, Note 4 of the S.O. 1055 (E) dated 19.10.2001 would be applicable to such substances including cough syrup."

11. As rightly pointed out by Mr. Halwasia, the case in hand is fully covered by the said answer of the Division Bench. Because, according to A6 and his statement given u/S.67 of NDPS Act, A6 had supplied the subject matter CBCS after verifying the Drug

Licence and the other relevant documents. However, initially, when the A6 had sent his written reply to the notice u/S.67, he did not refer the details of the said licence, indicating that, under that license either Dr. Paresh Patel or A3 were entitled to order, procure and possess such a large quantity of the CBCS, i.e., beyond the quantity stated in column 3 in the table above, which is undoubtedly the 'Schedule H' drug, under the NDPS Act, the Drugs & Cosmetic Act, 1945 and the Rule made thereunder, requiring a specific license for the same as submitted by Mr. Halwasia. Moreover, copy of said license is also not produced by A6 to show that he was justified in supplying the CBCS in question to A3 and the latter was permissible in law to procure the same.

11.1 On the contrary, as observed by this Court in the Order dated 27.03.2025, in paragraph 6, in the B.A. No.3703/2024 filed by Fakruddin Momin (A1), *prima facie* it is seen that M/s.G Next belonging to Dr. Patel was a proprietary concern and he had appointed A3 to undertake the operation for supply of medicines. However sometime in the month of July 2022 when Dr. Patel had a reasonable apprehension that there was something fishy in the dealings of A3, he had directed A3 to shut down the operations of the said proprietary concern M/s.G Next. Further, appropriate correspondence was entered into by Dr. Patel himself to ensure that the drugs licence and registration of M/s.G Next was cancelled by the Statutory Authorities. To that effect, all such details were enumerated by him on the basis of documentary evidence appended to the charge sheet in his voluntary statement which is also appended to the charge sheet. Therefore, it was incumbent upon A3 to not have operated under the name and pretext of M/s.G Next in supplying any medicines to any person.

Further, this Court in paragraph 7 observed that, *prima facie*, it is seen that in the first quarter of 2023, A3 had undertaken several correspondence for supply of medicines and the alleged contraband by impersonating himself as a Doctor when he was a mere medical representative on behalf of M/s. G Next and entered into several transactions.

12. Secondly, it is significant to note that the alleged Orders placed by A3 for supply of the CBCS were not enclosed with the reply submitted by A6. That apart, said Orders seems to be unclear as figures of the quantity of the substance have been written in a very vague and suspicious manner, i.e., (i) Monocuff Plus Syp Every month required 200 cash [order date nil], (ii) I declare to Cab Tab company I will sell every month 300 cash 2 coff Plus syp [order date 13.02.2023], (iii) I have given my Order from The g Next Agency 50 *Petti* mono Coff Plus And I (illegible) the Cap Tab this month 300 cash target [order date 07.03.(yy illegible)]. Lastly, the entire payment was made from the personal bank account of A3, not from the bank account of M/s.G Next. Therefore, the conclusion is inevitable that the 6695 bottles of the CBCS were not supplied for "Therapeutic practice" but for illicit sale of the same.

13. The conspectus of the above discussion is that, *prima facie*, this Court is of a view that A6 is guilty of the alleged offence relating to illegally selling the commercial quantity of the CBCS. Additionally, attention of this Court was invited to two other similar crimes and, as alleged therein, the CBCS bottles were supplied by the same company of A6. Therefore, and considering the material on record, it appears that, if bail is granted, A6 is likely to repeat the offence. Therefore, the rigours of Section 37 of the NDPS Act are applicable in this case with full force. As such, applicant- Sumit Mayyar (A6) is not entitled for bail.

14. In so far as applicant -Ankil Jagdishchandra Kholwadwala (A3) is concerned, Mr. Tripathi submitted that A3 is in jail for last three years and seven months. Till the date, the charge is not framed. The trial is not likely to commence and conclude in a foreseeable time. That A1, A2, A4 and A5 have been granted bail and it is not assailed for cancellation before the Apex Court. Therefore, Mr. Tripathi submitted that A3 is entitled for bail on the ground of parity and prolonged incarceration.

However, while granting bail to A1, this Court has observed that, the role of the A1 in transporting the goods after receiving his hire charges of Rs.5,000/ was not *prima facie* seen as being connected to or having any nexus with A3. But, at present, this Court found that A3 was hiddenly involved with A6 for procurement of the CBCS for its illicit use. Such activities are spoiling youth of the Country. In the matters of economic offences, Courts have to be of iron hands as such offences are committed with cool calculation and are deliberated design to effect and fabricate the whole economy of the country. Therefore, the offence is serious. In the backdrop, A3 is also not entitled for bail.

15. As a result, both the Bail Applications are rejected.

16. As an abundant caution it is clarified that any observations made in the present Order are for the purpose of deciding the present Bail Applications. The trial Court shall decide the said case without getting influenced by any of the said observations.

(SHYAM C. CHANDAK, J.)