

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 38 OF 2024

1. Sana Zahir Qureshi
2. Zahir Ahmed Qureshi

...Applicants

Versus

Union of India and Anr.

...Respondents

Mr. Adil Khatri, *for the Applicants.*

Ms. Pai Aruna Shantaram, *for the Respondent No.1.*

Ms. Gauri S. Rao, *APP for the Respondent No.2-State.*

CORAM DR. NEELA GOKHALE, J.

DATED: 2nd FEBRUARY 2026

PC:-

1. By this Application, the Applicants seek their enlargement on bail in connection with Special (NDPS) Case No. 602 of 2023 in NCB/MZU/C.R.NO.II-48/2022 dated 9th December 2022 registered with the Narcotics Control Bureau (NCB), Mumbai, for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The case of the prosecution, in brief, is that, on the basis of secret information received by team of NCB in presence of 2 independent witnesses, seized 920 bottles of Chlorphenaramine Maleate and Codeine Phosphate Phensirest Cough Syrup each containing 100 ml vide panchanama dated 9th December 2022 from Room No.303, SimranPreet CHS, Plot No.25-A, Sector 14, Koparkhairne, Navi Mumbai. According to the prosecution, the said premises are connected with the Applicant Nos. 1 and 2. The Applicants are married to each other. There are other Accused in the said offence. On the basis of revelations made by the present Applicants, other Accused were also arrested and the present complaint came to be filed.

3. The Applicants sought bail from the Special Judge (NDPS Act), Thane. However, by order dated 20th December 2023, their bail application was rejected. Hence, the Applicants are before this Court for the reliefs as prayed.

4. At the very outset, Mr. Adil Khatri, learned counsel appearing for the Applicants, drew my attention to the order dated 10th March 2025 passed by the Co-ordinate Bench of this Court in Criminal Application No. 1656 of 2024. According to Mr. Khatri, the Applicants have filed an application under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') seeking setting aside of the order on the ground that procedure followed in the framing of charges and proceeding with the recording of evidence was completely illegal. He submits that without framing charges and without there being any compliance of Section 294 of the Cr.P.C., the trial commenced and recording of evidence of the prosecution commenced. He submits that the *roznama* indicates that on the date on which charges are framed, the Presiding Officer of the Court himself was on leave. He submits that recording of the *roznama* and the procedure undertaken in the Trial Court is illegal. Hence, the Applicants filed Criminal Application No.1656 of 2024 seeking setting aside of the order, framing the charges. He has drawn my

attention to the order passed by the Co-ordinate Bench of this Court whereby the Co-ordinate Bench of this Court has directed the Trial Court to defer the hearing of the trial till the next date. Furthermore, interim relief granted by order dated 10th March 2025 is continued till date.

5. Mr. Khatri, submits that from the procedure followed in the Trial Court, it is clear that the Applicants are falsely implicated in the present case and hence, story of the prosecution is unbelievable. He submits that the Applicant is in jail since 10th December 2022 and till the order passed by the Co-ordinate Bench dated 10th March 2025, the Applicants have suffered incarceration for about 3 years and 1 month. In these circumstances, he prays that Bail Application be allowed.

6. *Per contra*, Ms. Aruna Pai, learned Special Public Prosecutor representing the Union of India in the matter, contests the Bail Application. She points to two affidavits filed on behalf of the NCB. She submits that all the provisions

of the NDPS Act are complied with. The quantity of contraband recovered from the present Applicants is beyond commercial quantity. Thus, she resists the Bail Application.

7. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. A clear reading of the order dated 10th March 2025 passed by the Co-ordinate Bench of this Court in Criminal Application No.1656 of 2024 indicates that this Court on being satisfied with the arguments advanced by the learned counsel for the Applicants, was pleased to defer the hearing of the trial till the next date. This interim order is continued till date. It appears that there are some discrepancies and unexplained procedure, which have been followed before the Trial Court. In this context, this Court was pleased to direct the Trial Court to defer the trial. Thus, there is reason to believe that the Applicants *prima facie* have not committed the said offence. Further, the Applicants are in jail since 10th December 2022 till date.

9. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under:-

ORDER

- i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- each with one or two local sureties in the like amount;
- ii) The Applicant No.1 is permitted to furnish provisional cash bail of Rs.50,000/- for her release immediately and file undertaking that she will provide one or two local sureties in the like amount of Rs.50,000/- within a period of four weeks after her release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;
- iii) The Applicants shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iv) The Applicants shall also attend the Narcotics Control Bureau (NCB), Mumbai once in a month on first Monday between 11:00 a.m. to 02:00 p.m. till the charges are framed;

v) If the Applicants have not deposited their passports, if any, the Applicants shall deposit the same with the Narcotics Control Bureau (NCB), Mumbai;

vi) The Applicants shall not leave India, without the permission of the Trial Court;

vii) The Applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicants shall inform their latest place of residence and contact number immediately after being released and / or change of residence or

mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Narcotics Control Bureau (NCB), Mumbai;

ix) The Applicants to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

10. Application is allowed in the above terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)

Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
Date:
2026.02.03
10:33:59
+0530