

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1731 OF 2024**

Omprakash Krishnaram Khileri ...Applicant
Versus
State Of Maharashtra ...Respondent

Ms. Lochan Chandka *a/w Salma Shaikh, for the Applicant.*
Ms. Poonam P. Bhosale, *APP for the State-Respondent.*

CORAM DR. NEELA GOKHALE, J.
DATED: 14th JANUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 617 of 2023 dated 28th August, 2023, registered with the Tulinj Police Station, for the offences punishable under Sections 8(c), 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS').

2. The brief facts of the case are that on 28th August, 2024, secret information was received by the officials of the Tulinj Police Station that one, Prakash Bhadu is selling MD

drugs from his house at Room No. 302, Datta Ashirwad Building, Central Park and today 4 to 5 persons from Rajasthan have come to buy drugs from him. The Applicant is one of the said persons. After following the due procedure prescribed under the NDPS Act, said persons were apprehended and searched. Upon search, 55 grams of Mephedrone was recovered from the present Applicant. Pursuant to the registration of FIR, the Applicant was arrested on 29th August, 2023.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Vasai, however, 21st February, 2024, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

4. Ms. Lochan Chandka, learned counsel for the Applicant, at the very outset, submits that although a commercial quantity of contraband, weighing 55 grams, was recovered from the present Applicant, the said weight is along

with the plastic pouch. She submits that the Applicant has suffered incarceration of more than 3 years. She submits that the charges are framed only on 6th January 2026, but it is unlikely that the trial will conclude in the near foreseeable future. She has also raised various other grounds that compliances under the NDPS Act are not done. He thus, prays that the Applicant be released on bail.

5. Ms. Poonam Bhosale, learned APP, submits that the offence is serious as commercial quantity of Mephedrone was recovered from the present Applicant. She, on instructions, submits that the charges are framed on 6th January 2026. Admittedly, there are no criminal antecedents against the present Applicant.

6. The Applicant has suffered incarceration of more than 3 years without the trial being commenced. The Supreme Court in the case of *Ankur Chaudhary v. State of Madhya Pradesh*¹ has observed that failure to conclude the trial within

1 Special Leave to Appeal (Crl.) No.4648 of 2024 decided on 28th May, 2024.

a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.

7. Considering that the Applicant has suffered incarceration of about 3 years without the trial being commenced, and that there are no criminal antecedents against the Applicant, and in view of the aforesaid decision of the Supreme Court, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under:-

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

- iii) The Applicant shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m., till the charges are framed;
- iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;
- v) The Applicant shall not leave India, without the permission of the Trial Court;
- vi) Since the Applicant is a permanent resident of Rajasthan, he shall not leave the State of Maharashtra without the permission of the Trial Court, till the conclusion of the trial;
- vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- viii) The Applicant shall inform his 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 Police Station concerned;

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

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

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

9. 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)