

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3189 OF 2024**

Frank Kenneth Ezi
Versus
State of Maharashtra

...Applicant

...Respondent

Ms. Mallika Sharma a/w Zehra Charania i/by Ayaz Khan, *for the Applicant.*
Ms. Anuja S. Gotad, *APP for the Respondent - State.*
API – Nilesh Salunke, Malwani Police Station, Mumbai, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 30TH JANUARY 2026

PC:-

1. Pursuant to order dated 7th January, 2026, Ms. Gotad, learned APP, has tendered a copy of C.A. Report. The same is taken on record.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 903 of 2023 dated 16th July, 2023 registered with the Malvani Police Station, for the offences punishable under Sections 8(c) and

22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS**').

3. The case of the prosecution, in brief, is that on 15th July, 2022 at 11:25 p.m., while the police officials of the Malvani Police Station were on patrolling duty, they found the present Applicant lurking in suspicious circumstances. Upon noticing the police, the Applicant started to run away and hence the police officials having some doubt and apprehension regarding the Applicant, chased and apprehended him. 100 grams of Mephedrone was recovered from the possession of the Applicant. After following the due procedure prescribed under the provisions of the NDPS Act, and pursuant to the registration of the FIR, the Applicant was arrested on 15th July, 2023.

4. The Applicant made an application seeking bail before the Special Judge (NDPS), City Civil & Sessions Court, Greater Bombay, however, by order dated 3rd July, 2024, the

said application was rejected. Hence, the Applicant has filed the present Bail Application for the relief as prayed.

5. At the outset, Ms. Mallika Sharma, learned counsel for the Applicant pointed out that the contraband recovered and seized from the Applicant was sent to the FSL for analysis after a period of one month. Hence, this Court vide order dated 26th November, 2025, directed the Investigating Officer to file an affidavit explaining the lapses in sending the sample of the substance to the FSL after a period of one month, from the date on which the sample has been drawn before the Magistrate i.e., on 12th October, 2023. Accordingly, the Investigating Officer has filed his affidavit dated 10th December, 2025, affirmed before the Assistant Registrar of the Court. The delay in sending the contraband for analysis has been explained in the said affidavit.

6. Ms. Sharma also brings to my notice a discrepancy in the recorded time at which the information was received and forwarded to the superior officer. She submits that printer

and other stationery material were sought for, by the Panchas and the police officials only after the letter was typed and dispatched. She thus submits that, in absence of such stationery it is doubtful as to whether the letter was created at a later point of time. She further submits that there is a change in the contraband as the C.A. report, which is now placed on record, indicates that the contraband recovered and identified earlier as Mephedrone is found to be Methamphetamine by the FSL. She thus, submits that there is considerable difference between the contraband recovered and the contraband analyzed by the FSL. She further submits that the Applicant has suffered incarceration for two years. In these circumstances, she prays that the Applicant be enlarged on bail.

7. Ms. Gotad, learned APP representing the State, has taken me through the Affidavit filed by the Investigating Officer regarding the delay in dispatching the samples to the FSL, drawn before the Magistrate. She submits that although

there is a gap of a period of one month in dispatching the samples to the FSL, the report clearly indicates that the contraband which was sealed before the Magistrate is intact and the seal has not been tampered. She therefore submits that no prejudice is caused to the Applicant because of the said delay. She submits that the nature of contraband recorded at the time of seizure was on the basis of the information given to the police officials by the Applicant himself and hence it is recorded as Mephedrone. However, on analysis by the FSL, it is found to be Methamphetamine, which is also covered under the NDPS Act. She submits that the charges have been framed and the trial is likely to conclude within a period of six months. She thus, submits that the Bail Application be rejected.

8. I have heard learned counsel for the respective parties and perused the record of the case with their assistance.

9. Admittedly, there is a gap of one month between the date on which the samples were drawn before the Magistrate and the date on which they were dispatched to the FSL, although the Investigating Officer has attempted to explain the said delay in his affidavit.

10. Be that as it may, Ms. Gotad's explanation as to the delay in trial is that the compliance under Section 294 of Cr.PC could not be made on account of absence of the C.A. Report. However, the C.A. Report clearly indicates that the it was received on 8th April, 2024 i.e., almost one year and 9 months ago. There is also considerable delay in sending the contraband to the FSL even after samples were drawn before the Magistrate. Admittedly, there are no antecedents pertaining to the Applicant.

11. In these circumstances, since the Applicant has already suffered incarceration for two years without the trial having commenced, 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) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

iv) The Applicant shall not leave India, without the permission of the Trial Court;

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

vi) 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;

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

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

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

13. 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)