

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3472 OF 2024**

Inusa Godwin @ John Peter

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Advait Tamhankar i/b Shekhar S. Bhandary & Karthik S. Bhandary, *for the Applicant.*

Mr. Gauri S. Rao, *APP for the Respondent-State.*

Mr. Vijay Naik, *ANC Kandivali Mumbai*

**CORAM DR. NEELA GOKHALE, J.
DATED: 12TH FEBRUARY 2026**

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 95 of 2021 dated 10th November 2021 registered with the ANC Kandivali Unit, for the offences punishable under Sections 8(c), a/w 21(c) of the Narcotic Durgs and Psychotropic Substances Act, 1985 (for short 'NDPS') and also Section 14-A(b) of the Foreigners Act, 1946.

2. The case of the prosecution, in brief, is that while the officials of the ANC Kandivali Unit were on patrolling duty, the Applicant was found lurking in suspicious circumstances. Upon his search, he was found to be in possession of 2 kgs and 14 grams of Cocaine. Hence, the FIR was registered and the Applicant was arrested on 10th November 2021.

3. The Applicant made an application seeking bail before the NDPS Special Judge, City Civil and Sessions Court, Greater Bombay. However, by order dated 05th July 2024, his bail application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Advait Tamhankar, learned counsel for the Applicant submits that there is non-compliance of Section 52-A of the NDPS Act. According to him, the Panchanama reflects that the sample was collected from the spot and not before the Magistrate. He also submits that there is a change in contraband from the results obtained in field testing. The field testing resulted in identifying the contraband as

Methaqualone. However, the C.A. Report finding indicates contraband to be Cocaine and not Methaqualone. Thus Mr. Tamhankar says that the Applicant is innocent and this is a case of false implication. Hence, he prays that the Applicant be released on bail.

5. Ms. Gauri Rao, learned APP, at the very outset, submits that the charges have been framed, all the compliances have been made and one witness has already been examined. She further submits that the prosecution in all intends to examine only 9 witnesses.

6. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. I have perused the charge-sheet. Insofar as the objection regarding the change in identity of the contraband is concerned the Spot Panchanama reveals that the Investigating Officer and the Panchas have clearly recorded that the

substance could be Cocaine or Methaqualone. Neither the Investigating Officer nor the Panchas are experts in identifying the contraband and hence the FSL report, ultimately finding that the contraband was Cocaine is to be believed.

8. Considering the aforesaid, I am satisfied that the ANC Kandivali Unit, Mumbai officials have complied with the provisions of the NDPS Act, 1985 and there is no deficiency in their investigation. The Applicant was found in conscious possession of 2 kgs and 14 grams of Cocaine, which is much more than the commercial quantity. The offence is serious and its gravity cannot be undermined. There is reasonable ground to believe that the Applicant has committed the alleged offence. Also considering that the trial has commenced and one witness is already examined, and the prosecution intends to examine only nine witness, I am not inclined to grant enlarge the Applicant on bail at this stage.

9. The present Bail Application is rejected and stands disposed of accordingly.

10. 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)