

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5437 OF 2024**

Mohd. Nijam Hanif Mujawar @ Partner ...Applicant
Versus
The State Of Maharashtra ...Respondent

Ms. Puja Yadav, with Shreerat Kamath, for the Applicant.
Ms. Poonam P. Bhosale, APP for the State-Respondent.

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

PC:-

1. The Applicant seeks his release on bail in connection with the FIR No.0007 of 2024 dated 3rd January 2024 registered with the Wadala T.T. Police Station, Brihanmumbai City for the offences punishable under Sections 8(c) and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. The matter was heard earlier and by order dated 27th November 2025, there was a direction to expedite the C.A. Report and to place it on record within a period of 15 days

from the date of that order. Matter was then listed on 22nd December 2025. However, it did not reach on 22nd December 2025 due to paucity of time and was listed on 13th January 2026, on which date, it could not be taken up and hence, circulation was granted for today on the basis of statement of learned counsel for the Applicant, on instructions, that the Applicant's wife is in hospital and their 4 year old son is being looked after by their neighbour as there are no relatives to take care of him.

3. Even, as on date, C.A. Report has not been received by the Investigating Officer. Ms. Puja Yadav, learned counsel appearing for the Applicant, submits that on account of non-availability of C.A. Report, the compliance under Section 294 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') could not be made by the State and as such, despite charges being framed in April 2025, the trial, in effect has not commenced till date. She also tenders on record, medical documents of the Applicant's wife namely, Muskan Mujawar, who is admitted in

the hospital. The minor son of the Applicant and his wife, is at present, with the neighbours as there are no relatives to take care of him and hence, she had requested for urgent circulation and hearing of the matter.

4. The facts of the case, in brief, are that, while the concerned Authorities were on patrolling duty, 2 persons were arrested namely, the Applicant and one, Rehmat Ali Shaikh. 240 bottles of Codeine Phosphate based cough syrup were recovered from the Applicant. Since the contraband recovered is of commercial quantity, the Applicant was arrested on 3rd January 2024. There is another co-accused namely, Salman Khan, who was arrested only on the basis of statement of co-accused and hence, he was released on bail.

5. The Applicant made an application seeking bail before the Sessions Judge (N.D.P.S.), City Civil & Sessions Court, Greater Bombay. However, by order dated 4th December 2024, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

6. Ms. Puja Yadav, learned counsel appearing for the Applicant, submits that there is non-compliance of Sections 42 and 52A of the NDPS Act and the contraband seized from the Applicant was mixed on the spot. She also submits that there are material discrepancies in the contraband placed before the learned Metropolitan Magistrate's Court for the purpose of inventory panchanama. Ms. Yadav also submits that the Applicant has no criminal antecedents. Additionally, she submits that even on humanitarian grounds, since the Applicant's son aged 4 years is without any shelter and care on account of his wife's hospitalization, the Applicant be released on bail.

7. Ms. Poonam Bhosale, learned APP representing the State in the matter, submits that 240 bottles of Codeine Phosphate based cough syrup were recovered from the Applicant and there is every reason to believe that he has committed the said offence. Hence, she resists the Bail Application. However, she

concedes that there are no criminal antecedents against the Applicant.

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

9. Considering that the Applicant is in custody since 3rd January 2024; charges are framed in April 2025; however, only on account of the fact that C.A. Report is not received by the Investigating Agency, leading to the trial having come to stand still for such a long period of time and also considering the fact that the Applicant's son is homeless at the moment, I am inclined to enlarge the Applicant on bail only on that ground and it is ordered as under:-

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/ with one or two local sureties in the like amount;

ii) The Applicant is permitted to furnish cash bail of Rs.25,000/- for his release and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;

iii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

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

vii) 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;

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

ix) 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)

SHAMBHAVI
NILESH
SHIVGAN

Digitally signed by
SHAMBHAVI NILESH
SHIVGAN
Date: 2026.01.14
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