

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

BAIL APPLICATION NO.62 OF 2025

Sandip Ganpat Chawan

...Applicant

Versus

Union Of India And Anr.

...Respondents

Mr. Rajkumarlaxman A Rajhuns, for the applicant.

Mr. Madhukar Dalvi, SPP for the Respondent No.1-NCB.

Ms. Gauri S. Rao, APP for the Respondent-State.

CORAM DR. NEELA GOKHALE, J.

DATED: 23rd FEBRUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with NDPS Special Case No.846 of 2021 arising out of File No. NCB/MZU/CR-06/2021 registered with the Narcotics Control Bureau, Mumbai ('NCB') for the offences punishable under Sections 8(c) read with 22(c), 27, 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'). There are in all

three Accused; the Applicant is Accused No.2 and Accused Nos.1 and 3 are already on bail.

2. By order dated 30th January 2026, Mr. Madhukar Dalvi, learned Special Public Prosecutor appearing for the Respondent No.1-NCB, sought three weeks time to file an affidavit in reply. Time was granted. Till date, no affidavit in reply has been filed.

3. Mr. Rajkumarlaxman Rajhuns, learned counsel appearing for the Applicant, submits that the Applicant is in custody from 17th January 2021. In these circumstances, I have taken up the matter for hearing in the absence of an affidavit in reply on behalf of Respondent No. 1 – NCB..

4. The case of the prosecution, in brief, is that, on 17th January 2021, the Investigating Officer received specific information, that two persons, namely Mohd. Nazim Abdul Kadir Ajmal Ali Khan and Sandip Ganpat Chawan (the Applicant herein) were carrying Mephedrone ('MD') in a blue

coloured Aactiva scooter and would be delivering the said contraband to an unknown person near Good Luck Hotel at about 22.30 hours. Accordingly, a trap was laid and the NCB team intercepted the said two persons riding the said scooter. After following due procedure under the provisions of the NDPS Act, search was taken of the persons as well as the scooter in presence of panchas. During interrogation, the Applicant and the Co-accused disclosed that MD was kept in the dickey of the scooter. Accordingly, dickey was opened and quantity of 61 grams of MD was found in the dickey in a plastic zip-lock pouch. Hence, the Applicant and the Co-accused were arrested on 17th January 2021 itself pursuant to an FIR being lodged against them.

5. The Applicant filed an application seeking bail before the Special Judge (N.D.P.S.), Greater Mumbai. However, by order dated 30th December, 2021, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

6. Mr. Rajhuns, learned counsel appearing for the Applicant, submits that the Applicant is falsely implicated in the case. He has pointed to the statement of Co-accused in which the Co-accused has clearly informed the Police that the present Applicant had no knowledge about the contraband kept in the scooter. He also submits that the Applicant was arrested in January 2021 and till date, only charges are framed but recording of evidence has not yet been commenced. He has thus, suffered incarceration of about five years and one month without the trial having commenced. He also submits that the Applicant belongs to a poor family and was the only earning member. He thus, prays that Bail Application be allowed.

7. *Per contra*, Mr. Madhukar Dalvi, learned Special Public Prosecutor representing the NCB in the matter, submits that 61 grams of MD recovered from the scooter of the present Applicant and the Co-accused constitutes commercial quantity; charges are framed and the trial is likely to

commence soon. In these circumstances, he submits that the Bail Application be rejected.

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

9. Admittedly, the Applicant is in jail since 27th January 2021 and recording of evidence has not yet commenced before the Trial Court. He has thus suffered incarceration of about 5 years till date. The Apex court, in a series of its decisions has observed, that failure to conclude the trial within 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 of the NDPS Act may in such circumstances be considered.

10. In these circumstances, 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.25,000/- 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 holds a passport, he 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 Narcotics Control Bureau, Mumbai;

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

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

11. The Bail Application is allowed in the above terms and is accordingly disposed of.

12. 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
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SHIVGAN

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