

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 533 OF 2025

Mohammad Fakruddin Shaikh ...Applicant

Versus

State Of Maharashtra ...Respondent

Mr. Kiran Gogavale, for the Applicant.

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

PSI – Mahesh Anjanwad, Shivajinagar Police Station, is present.

CORAM DR. NEELA GOKHALE, J.

DATED: 9th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 58 of 2024 dated 20th January 2024 registered with the Shivajinagar Police Station, Mumbai for the offences punishable under Sections 8(c) and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”).

2. While the officials of Shivajinagar Police Station were on patrolling duty, they found a person lurking in suspicious circumstances and carrying a black-coloured plastic bag in his hand. They intercepted the said person and found that the

said plastic bag contained 15 bottles of Codeine. After following the due process of the NDPS Act, search and seizure proceedings were conducted. Section 50 notice was given to them, although Ms. Rao submits that the same is unnecessary since the contraband was recovered from a plastic bag carried in his hand. Pursuant to the registration of the FIR, the Applicant was arrested on 20th January 2024.

3. The Applicant made an application seeking bail before the Special Judge (NDPS), City Civil and Sessions Court, Greater Bombay. However, by order dated 8th November 2024, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Kiran Gogavale, learned counsel for the Applicant, at the very outset, submits that there is no signature of the Complainant on the statement. He further submits that there is gross violation and non-compliance of provisions of the NDPS Act. He specifically submits that there is non-compliance of Section 52A of the NDPS Act and that the

seized contraband was sent to the FSL. He also submits that there is non-compliance of Section 50 of the NDPS Act. On the basis of the aforesaid lapses on the part of the Investigating Agency, Mr. Gogavale prays that the Applicant be released on bail. He further submits that the Applicant is in custody since 20th January 2024 and although the charge is framed, there is no recording of evidence commenced before the Trial Court. The matter is placed now for compliance of Section 294 of the Cr.P.C. by the prosecution.

5. *Per contra*, Ms. Gauri Rao, learned APP, submits that the quantity of contraband seized is of commercial quantity. She further submits that all the compliances have been made by the Investigating Agency and as such, the Applicant is *prima facie* complicit in the said offence. She thus submits that the Bail Application be rejected.

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

7. Admittedly, the quantity of Codeine bottles seized is only 15 bottles, while the commercial is anything above 11 bottles, depending on the quantity of Codeine contained in the cough syrup. In any case, without ascertaining the non-compliances as alleged to have been made by the prosecution, I am inclined to grant bail to the Applicant as he is in custody since 20th January 2024 and till date, no witness has been examined. It is unlikely that the trial will conclude in the near foreseeable future.

8. Considering the factual matrix of the present matter, I am inclined to enlarge the Applicant on bail and it is 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 as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.

iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

iv) The Applicant shall not leave India, without 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 mobile 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 concerned Police Station;

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

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

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

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)