

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 876 OF 2025**

Faisal Akbar Maknoja	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Kamlesh Satre, *for the Applicant.*
Ms. Megha S. Bajoria, *APP for the State-Respondent.*

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

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 1235 of 2023 dated 31st December 2023 registered with the DCB CID, Unit-10 for offences punishable under Sections 8(c) read with 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”). There are in all two accused.

2. The case of the prosecution, in brief, is that while the officials of the DCB CID, Unit-10 were on patrolling duty, they found the Applicant lurking in suspicious circumstances near Ubed Medical, S.V. Road, Jogeshwari (W), Mumbai carrying a

white plastic bag. The police had apprehension regarding the activities of the Applicant and hence, stopped him. After making the necessary compliance under the NDPS Act, the Applicant was searched and 100 grams of Mephedrone (MD) was found in his possession, pursuant to which the FIR was registered and the Applicant was arrested on 31st December 2023.

3. The Applicant made an application seeking bail before the Special Judge (NDPS), City Civil and Sessions Court at Greater Mumbai. However, by order dated 17th February 2025, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Kamlesh Satre, learned counsel for the Applicant, submits that there is non-compliance of Section 50 of the NDPS Act; name of the panchas are not mentioned in the panchanama; there is non-compliance of Sections 41 and 42(1) of the NDPS Act and total non-compliance of Section 42 of the NDPS Act. He also submits that the gazetted officer was

not present with the raiding team and that the mandatory procedure under Section 52A of the NDPS Act was not complied with. Most importantly, he submits that the Applicant was arrested on 31st December 2023 and till date even charges are not framed. He thus submits that the Applicant be enlarged on bail.

5. Ms. Megha Bajoria, learned APP, has taken me through the record and the papers of the charge-sheet. She submits that there is no defect in compliance of the provisions of the NDPS Act and that the provisions of Sections 42, 50 and 52A have been strictly followed. She submits that commercial quantity of Mephedrone is recovered from the Applicant and there is reason to believe that the Applicant has committed the offence as alleged. She however, concedes that there are no antecedents pertaining to the present Applicant.

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

7. Admittedly, the Applicant is arrested on 31st December 2023 and till date, even the charges are not framed. 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.

8. Considering that the charges are not framed and that the trial is not likely to conclude in the near foreseeable future and it is also admitted that there are no antecedents against the present Applicant, 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 Police Station concerned, on first Monday of every month between 10:00 a.m. and 12:00 p.m., till the charges are framed. He shall also 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)