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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

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Criminal Bail Application No. 1666 of 2025

Laxman Balu Shinde

.. Applicant

versus

State of Maharashtra

.. Respondent

Mr. Anil G. Lalla with Mr.Yash Pulekar and Mr.Rushil Alag for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent – State.

Mr.Mahesh Mule, SPP with Ms.Nidhi Narwekar for the Respondent.

Mr.Atmaji Sawant, Sr.PI, DCB CID Unit-7 is present in Court.

CORAM : R. M. JOSHI, J

RESERVED ON : 24TH MARCH, 2026

PRONOUNCED ON : 6TH APRIL, 2026

P.C. :

1. The applicant is seeking bail in connection with Crime No. 12 of 2024 registered with ANC Ghatkopar Unit, Mumbai for the

offences punishable under Sections 8(C), 22(C) and 29 of N.D.P.S. Act, 1985.

2. It is the case of the prosecution that on 15.02.2024 P.I. Sawant received specific intelligence that Parveen Banu would be receiving significant quantity of MD for sale in Mumbai. A trap was laid. A lady was found in suspicious circumstances and hence, apprehended. Before apprehending her, she attempted to flee. Since, the circumstances were suspicious in nature two panch witnesses were summoned. The said lady i.e. accused No.1 was searched after compliance of Section 50 of the Act. During the personal search of accused No.1, 641 gm of mephedrone (MD) was recovered from her. On the basis of information received from the said lady, accused No.2 was arrayed in crime and a recovery of 3 kg of MD is made from him. During interrogation with him, the names of accused Nos.3 and 4 were revealed. The police unit of DCB, CID proceeded to Surat and apprehended accused Nos.3 and 4 and they were brought to Mumbai. During further investigation it was revealed that accused

Pravin Shinde is manufacturing MD in a factory at Sangli. The said factory was raided, wherein 122.500 kg of MD came to be recovered. Since, the present applicant and other co-accused were found working in the manufacturing process of MD in the said factory, they came to be arrested. A further investigation was carried out and subsequent arrests were also affected. It is the case of the prosecution that this is a crime committed by a syndicate dealing with Narcotic drugs. It is further claimed that some of the accused persons are deported from UAE. It is claimed that the present crime is voluminous not only in terms of the recovered MD which is more than 122 kg, but also in terms of the involvement of number of accused persons not only in different States in India but also from foreign countries. On conclusion of investigation against the applicant and the co-accused who are arrested, charge-sheet came to be filed against them.

3. Present application is filed by the Applicant for bail on the ground of false implication. It is contended that he is a farmer and

since, was in need of work, started working along with some of the co-accused in a grapes farm. It is his submission that, he along with co-accused was picked up from the grape farm while he was sleeping. It is claimed that he has no concern or nexus with alleged manufacture of Narcotic Substance in the factory. According to him, there is no seizure or recovery of any contraband from him so also he has not been provided with grounds of arrest.

4. Learned counsel for the applicant submits that the applicant has no criminal history and that in fact he is a farmer by occupation. According to him, applicant was in search of employment and hence, accepted a job in grapes farm. It is his submission that the applicant has no concern with the factory or any alleged manufacturing done therein. He further submits that the panchanamas prepared by the Police Officers are not genuine and create doubt with regard to the same since the search panchanama does not even disclose the time a departure of the team. It is also claimed that the mobile phone seized of the applicant has not been sealed. All these circumstances,

according to him, create serious doubt with regard to the case of the prosecution sought to be made out against the present applicant. According to him merely on the basis of the statements of the co-accused and in absence of any connecting link of the applicant with the crime in question, he cannot be detained in jail after filing of the charge-sheet. He also seeks bail on the ground that grounds of arrest are not furnished to the applicant, in view of judgment of Hon'ble Supreme Court. On these amongst other submissions, he seeks bail. He placed reliance on following case laws :-

1. Pankaj Bansal vs. Union of India & others
2023 SCC Online SC 1200
2. Mahesh Pandurang Naik vs. The State of Maharashtra & another
Writ Petition St. No. 13838/2024
3. Hanuman Choudhary vs. The State of Maharashtra
Writ Petition Stamp No. 17788/2024
4. Vihaan Kumar vs. State of Haryana and another
2025 SCC OnLine SC 269

5. Learned APP opposed the application firstly on the ground that the volume of the recovery of narcotic substance i.e. MD is huge. According to him, there is prima facie evidence to indicate that all accused persons are working as narcotic drug cartel and the crime is spread not only in number of States in Indian but also being operated from foreign countries. It is his submission that there are 15 persons arrested till date and out of which 3 persons deported from UAE. He drew attention of the Court to the provisions of NDPS Act which according to him, provides for presumption of the commission of offences. It is his submission that, there is more than sufficient evidence on record to indicate that the present applicant is part of the said narcotic drug cartel and that the panchnama on record clearly shows that the applicant was not only working in the factory, but also had sufficient/adequate knowledge of the manufacturing process. Thus, it is his submission that having regard to the nature of offence it cannot be said that the embargo of Section 37 has no application to the present case. Insofar as the grounds of arrest and

information thereof to the applicant is concerned, attention of the Court is drawn to the memo of arrest, which according to him, in detail gives information with regard to the grounds of arrest to the applicant.

6. Prima facie perusal of the record in the form of panchanama indicates that the applicant along with some of the co-accused was apprehended in a factory at Sangli. The said panchanama, further revealed presence of raw material for manufacturing MD and required equipments for the production of MD. On the face of it, the evidence on record clearly indicates that the entire set up for manufacture of contraband was available there. Though the Applicant claims that he was employed in a grape farm, he was accosted not from the grape farm but from the said factory. In presence of panch witnesses, the applicant gave all information with regard to the manufacturing process of MD and apprised the raiding team of the same. Thus, it cannot be said that the applicant is not connected with the factory and the manufacturing process

undertaken therein. If it was so, he would not have been able to give details of the same. No doubt, possession of the contraband constitutes an offence however, at the same time, illicit trafficking of Narcotic Drugs and Psychotropic Substances also amounts to offence. It would be relevant to take note of Section 2(viia) of the Act which reads thus :-

2(viia) 'illicit traffic', in relation to narcotic drugs and psychotropic substances, means -

(i) xxxx

(ii) xxxx

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;

(iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii); or

(v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv).

7. In the instant case, there is evidence to hold applicant's involvement in the aforestated activities. Thus, it can be said that the applicant was abetting and conspiring in furtherance and in support of doing the above activities with the co-accused.

8. At this stage, it would be relevant to take note of the facts of the present case which are peculiar in nature. The investigation conducted till the date indicates about this being a syndicate activity carried out by the accused persons. In connection with this crime, raid conducted on a factory at Sangli led to seizure of 122 kg MD. The evidence on record on the basis of statement of witnesses so also electronic record more than sufficiently demonstrates that this is a case of conspiracy for committing offence under NDPS Act.

9. Insofar as the information of the ground of arrest is concerned, reliance is sought to be placed on the judgments of the Hon'ble

Supreme Court in case of Vihaan Kumar Vs. State of Harayana, **2025 SCC OnLine SC 269**, Prabir Purkayastha Vs. State (NCT of Delhi), **(2024) 8 SCC 254**. A reference is also made to the judgment of Division Bench of this Court in case of Hanuman Choudhary Vs. The State of Maharashtra in Criminal Writ Petition (Stamp) No. 17755 of 2024, decided on 25.10.2024, wherein it is held that non communication of grounds of arrest to the accused is violation of fundamental right and statutory right of the applicant.

10. In this regard however, it is pertinent to note the judgment of Hon'ble Supreme Court in case of State of Karnataka Versus Sri Darshan Etc., **2025 INSC 979** wherein after considering all previous judgments on issue it is held as under:

“20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally (2024) 7 SCC 576 represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the

accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.”

11. After the passing of the order by the Division Bench of this Court in case of Hanuman Choudhary (supra), the Hon’ble Supreme Court has held that, unless prejudice is shown, even in case of lapses in providing of the grounds of arrest would not ipso facto entitle an accused to get bail.

12. Learned counsel for the applicant submits that Co-ordinate Bench of this Court in case of Mimit Ajit Bhuta Versus The State of Maharashtra through DC CID in Criminal Writ Petition No. 5552 of 2025, decided on 10.03.2026, has granted bail to the accused therein.

13. A perusal of the judgment in case of Mimit Ajit Bhuta Versus The State of Maharashtra through DC CID (supra) shows that the judgment in case of State of Karnataka Versus Sri Darshan Etc. (supra) was taken into consideration however, it was held that in the facts and circumstances of the said case, the same does not assist the case of prosecution. The observations made in the said judgment more particularly in paragraph No. 16 indicates that in the said case, the arrest of the petitioners was done without issuing notice under Section 35(3) of BNSS, though it was warranted. Similarly, in the said case as observed in paragraph No.26, common grounds of arrest were furnished to both petitioners and that they could not offer satisfactory explanation of allegation. Thus, it cannot be said that the

said judgment came to be passed by distinguishing the judgment of Hon'ble Supreme Court in case of State of Karnataka Versus Sri Darshan Etc. (supra), but it was passed considering difference in facts of both cases. Most importantly the judgment in case of Mimit Ajit Bhuta Versus The State of Maharashtra through DC CID (supra) does not pertain to case under NDPS Act, whereas there are strict provisions for grant of bail under Section 37 of the NDPS Act in form of twin conditions, in case of commercial quantity of the contraband is seized from accused, which is contrary to the principle of bail is rule and jail is exception.

14. Section 37 of the Act mandates that before granting bail, the Court must be satisfied that the accused has not committed the crime and that he is not likely to commit the crime, if released on bail. Unless these two contingencies are met, the Court does not get a right to pass any order of bail. It is not expected from the Court to go into the evidence on record in the charge-sheet in detail, in order to find out loopholes in the case of the prosecution in order to grant

bail. In considered view of this Court, only in case of non-compliance of mandatory provisions, which go to the root of the matter and which would in all probabilities lead to negation of the seizure of the contraband, small here and there infraction of the procedure, cannot be permitted to become a ground for grant of bail.

15. In view of above discussion, there is no merit in the application. Application accordingly stands rejected.

(R. M. JOSHI, J.)