

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1768 OF 2025

Abhinav Atul Chaturvedi ...Applicant

Versus

Union Of India And Anr. ...Respondents

WITH

CRIMINAL BAIL APPLICATION NO. 1670 OF 2025

Faizal Ejaj Khan ...Applicant

Versus

Union Of India And Anr. ...Respondents

WITH

CRIMINAL BAIL APPLICATION NO. 1725 OF 2025

Rishabh Satish Sharma ...Applicant

Versus

Union Of India And Anr. ...Respondents

Mrs. Munira Palanpurwala Anand Mishra i/by Mr. Ashok M. Saraogi, for the Applicant in B.A. No. 1768/2025 and B.A. No. 1670/2025.

Mr. Dilip Mishra i/by Mr. Ayaz Khan, for the Applicant in B.A. No. 1725/2025.

Ms. Geeta Nayyar, Special P P, for the Respondent No.1 UOI.

Mr. H. J. Dedhia, APP, for the Respondent No. - State.

CORAM: R. M. JOSHI, J.

DATED: 8th May, 2026

PC:-

1. These Applications arise out of the same crime and hence, by consent of both sides, they are heard and decided together.

2. By this Application, the Applicant- Abhinav Atul Chaturvedi seeks bail in connection with F. No. CUS/SIIB/NDPS/20/2024-SPIB registered with Special Postal Investigation Branch (SPIB) for the offences punishable under Sections 8(c) read with 21 (c), 22(c), 27, 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'). The Applicant- Faizal Khan seeks enlargement on bail in connection with F. No. CUS/SIIB/NDPS/20/2024-SPIB registered with Special Postal Investigation Branch (SPIB) for the offences punishable under Section 8(c) read with 21(c), 22(c), 23, 28 and 29 of NDPS Act. The Applicant- Rishabh Sharma seeks his enlargement on bail in connection with F. No. CUS/SIIB/NDPS/20/2024-SPIB registered with Special Postal Investigation Branch (SPIB) for the offences punishable under Section 8(c) read with 21(c), 22(c), 23, 28 and 29 of NDPS Act.

3. It is the case of the prosecution that on 23rd January 2024 a letter was received from Postal Appraising Section (PAS), Foreign Post Office (FPO), Ballard Estate, Mumbai whereby they informed that during the scanning of import parcels, import parcel bearing tracking number CC103730488NL is found suspicious and requested Assistant Commissioner of Customs, SPIB. Based on the information received, the officers of SPIB took hold of the said parcel and moved the said parcel from FPO to New Custom House and examined it under panchnama dated 23.01.2024, which resulted in the recovery of 1636 grams of MDMA tablets. In order to ascertain the consignee/importer of the parcel a dummy parcel was formed under panchnama dated

25.01.2024, a team of officers was formed to carry out the said controlled delivery.

4. When the postman informed that he is ready to go to Ulwe for delivery of the parcels the officers and the panchas accompanied the postman in the Postal Van. On reaching the said address, the postman informed that no person by name Atish Pawar lives there and the persons staying in the said house refused to take the said parcel stating that they had not order anything. Thereafter the said postman tried to call a phone number which was written on the import parcel but the said phone number was switched off. Thereafter the said postman received a phone call from an unknown number and the caller was enquiring about the parcel by the name Atish Pawar. As per the direction of the officers the said caller was called at a decided location. Accordingly, a trap was laid and two persons approached the postal van and started communicating with the postman. The said persons were apprehended and on enquiring about their names it was revealed as Rishabh Sharma and Faizal Ejaj Khan. The said persons were placed under arrest.

5. On enquiry with Accused No. 1 i.e Rishabh Sharma he revealed that one of his friend Mr. Vincent, a Nigerian national had informed him to receive a parcel. On enquiry with Accused no. 2 he disclosed that he is an Auto driver and Accused no. 1 calls him frequently to drop him at his residence at K harghar from Club Machao in Sanpada, Navi Mumbai and he further stated that he does not know any person named Vincent.

Accordingly the Accused Nos. 1 and 2 were placed under arrest in respect of the said seizure and are at present in judicial custody. Thereafter based on statement of Accused No. 1 the name of Abhinav Atul Chaturvedi was revealed.

6. The learned counsel for the Applicant in Bail Application Nos. 1670 of 2025 and 1725 of 2025 submits that apart from the merits of the case, the Applicants are entitled for bail only on the ground that grounds of arrest were not furnished in writing to the Applicants. To support their submission, they placed reliance on the judgment of the Hon'ble Supreme Court in the *Pankaj Bansal v. Union of India & Ors.*¹ delivered on 3rd October 2023 and subsequent judgments in the case of *Prabir Purkayastha v. State (NCT of Delhi)*², *Vihaan Kumar v. State of Haryana & Anr.*³ and *Ahmed Mansoor and Ors. v. The State, Rep. By Assistant Commissioner of Police and Anr. in Criminal Appeal NO.4505 of 2025 [@ SLP [CRL.] NO. 198/2025].*

7. Learned Special Public Prosecutor opposed the said contention by submitting that there is evidence showing involvement of the Applicants in the crime under NDPS Act. It is claimed that on the ground of non-furnishing of grounds of arrest, they may not be enlarged on bail.

8. As far as these two Applicants are concerned, admittedly, grounds of arrest were not furnished to them. The Hon'ble

1 (2024) 7 SCC 576

2 (2024) 8 SCC 254

3 2025 INSC 162

Supreme Court in *Ahmed Mansoor* (*Supra*) after considering Judgment in the case of *State of Karnataka v. Sri Darshan Etc.*⁴ has held that non-communication of grounds of arrest is fatal to the validity of the arrest itself. Since, admittedly, no ground of arrest are communicated to the Applicants in writing, there is non-compliance of the judgment of the Hon'ble Supreme Court in the case of *Pankaj Bansal* and other judgments cited *Supra*.

9. As far as the Applicant in Criminal Bail Application No. 1768 of 2025 is concerned, learned counsel for the Applicant submits that reasons of arrest are provided to the Applicant but not grounds of arrest and hence, he is entitled for bail on that count. On merits, it is submitted that except for the statement of the Co-accused under Section 67 of the NDPS Act, there is no evidence to connect the Applicant with the crime. It is claimed that except for one entry of Rs.10,000/- in favour of one of the arrested Accused, that too, which indicate about the rent, there is no other evidence to show his involvement in the crime.

10. The learned Special Public Prosecutor opposes the said contention by pointing out the bank entry indicating receipt of money from arrested Accused in the account of the present Applicant. It is claimed that there is evidence collected during the investigation showing WhatsApp/Chats between the Applicant and the Co-accused. Learned counsel for the Applicant refuted the said contention by submitting that there is nothing in the charge-sheet to indicate so.

4 2025 INSC 979

11. The statement of the Co-accused under Section 67 of the NDPS Act is not substantive evidence. From the charge-sheet filed by Mr. Gagan Deep, it does not appear that any evidence indicating the communication between the Applicant and the Co-accused is made a part of charge-sheet. In absence of any such communication/material evidence placed on record in the charge-sheet, no cognizance of submissions to that effect can be taken. Thus, excluding inadmissible statement of Co-accused, there remains only evidence in the form of a single entry of Rs.10,000/- into the account of the present Applicant showing receipt thereof from one of the arrested Accused.

12. Perusal of the said entry shows that the said amount is received by way of rent. In such circumstances, only on the basis of isolated transaction, it cannot be said that the Applicant is a part of the conspiracy in the commission of crime.

13. In view of above, the Applications deserve to be allowed. Hence, following order:-

ORDER

- i) Criminal Bail Applications stand allowed in connection with F. No. CUS/SIIB/NDPS/20/2024-SPIB registered with Special Postal Investigation Branch (SPIB).
- ii) The Applicants be enlarged on bail, on furnishing P. R. Bond of Rs.30,000/- each, with one or two

local sureties in the like amount, to the satisfaction of the Trial Court.

- iii) The Applicants are directed to attend all dates of hearing before the Trial Court, unless exempted by specific order.
- iv) Any breach of the aforestated condition shall result forthwith into cancellation of bail.

14. In view of the above, Applications stand allowed and disposed of accordingly.

15. It is clarified that the above observations are made on *prima facie* consideration of the material on record and the same shall not bind the parties during the final hearing of the Trial Case.

(R. M. JOSHI, J.)

SHAMBHAVI
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