

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2171 OF 2025

Akshay Ramu Medithi	...Applicant
<i>Versus</i>	
Union Of India And Anr.	...Respondents

Mr. Taraq Sayed, with Anish Pereira and Ashwinii Achari, for the Applicant.

Ms. Megha Bajoria, SPP for the Respondent No.1.

Mr. R. M. Pethe, APP for the Respondent No.2-State.

CORAM: R. M. JOSHI, J.
DATED: 9th APRIL, 2026.

PC:-

1. The Applicant seeks bail in F.No. SG/INV-02/2024/SIIB (APSC) registered at Special Investigation and Intelligence Branch (SIIB), Airport Special Cargo, Mumbai Customs Zone-III, Mumbai (Now Special Case No.1829/2024) for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(A), 22(C), 23(a), 27, 27A, 28, 29 and 35 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. It is the case of the prosecution that on the basis of the specific intelligence, Respondent had intercepted a parcel having tracking number EE224566864CA of which consignee was the Accused No.2-Karan Sundeep Mehra. In the search of the said parcel 214 grams of Ganja was recovered. The Accused No.2 had

accepted the controlled delivery of dummy sample. Thereafter, Applicant had been to the post office for collecting the said parcel, which was booked in the name of the Accused No.2. Thereafter, the Accused No.2 and the Applicant had been to the post office for taking the delivery of the parcel and Accused No.2 had signed the delivery receipt. Therefore, the Accused No.2 and the Applicant were apprehended. Nothing is seized from the house search of the Accused No.2. However, in the search of the house of the Applicant, 0.74 grams LSD was recovered. Therefore, offence under the NDPS Act came to be registered against the Applicant and the Co-accused. After conclusion of investigation, charge-sheet bearing Special Case No. 1829 of 2024 came to be filed before the Sessions Court, Mumbai.

3. Learned counsel for the Applicant submits that the question in this Application is, as to whether the LSD papers, which were allegedly seized from the residence of the present Applicant, is of commercial quantity in order to grant or deny bail to the Applicant having regard to the provisions of Section 37 of the NDPS Act. In this regard, it is his further submission that the record does not indicate that on the seizure of the alleged LSD papers from the house of the Applicant, they were weighed by the Investigating Agency. It is further submitted that the weight is carried out for the first time in the inventory panchanama. It is further argued that there is no seal number mentioned in the inventory panchanama, which creates a doubt about the seized articles being kept tamper proof. Finally, he drew attention of the Court to the C.A. Report indicating that out of 1.5 grams of the LSD papers, 1.2 grams were returned as remainant. It is his submission that in respect of the

LSD papers, it is necessary that all sheets are examined by the C.A. He further argues that a doubt is created with regard to the seizure as in the panchanama, it is referred to as papers whereas it is recorded as sticks in the application for inventory made before the Magistrate. In these facts, he seeks bail.

4. The learned APP submits that the arguments of the learned counsel for the Applicant with regard to the difference in description of the LSD papers as 'LSD sticks' in the panchanama could be a typographical error, which could be explained during the course of the trial. She further submits that C.A. Report indicates that 1.5 grams with pouch was the sample received and the returned sample was 1.2 grams with pouch. It is her contention that therefore, 0.3 grams of weight of the LSD papers were examined and this amounts to commercial quantity. It is therefore argued that owing to rigors of Section 37 of the NDPS Act, application deserves rejection.

5. In response thereto, the learned counsel for the Applicant submits that the examination of each LSD paper is necessary for the reason that firstly, the weight of each paper could be different and secondly, there is every possibility that all papers, which are seized, may not be LSD. In order to apply rigors of the provisions of Section 37 of the NDPS Act to the case, there must be evidence indicating that the quantity of contraband involved is commercial quantity. The *prima facie* burden to substantiate the same is on the prosecution.

6. *Prima-facie*, perusal of the record indicates that there is inconsistency in the recording of the LSD papers in the

panchanama and other record. Even, the benefit is given to the Prosecution with regard to the wrong mentioning of the seized articles to be LSD sticks instead of papers, the question arises as to whether apparently there is material on record to indicate weight of those LSD papers being taken at the time of seizure of the same. At this stage, there is nothing on record to indicate so. Now, coupled with the said infirmity in the evidence of the prosecution, the question arises as to whether whatever was seized at the instance of the Applicant, were LSD papers. Admittedly, all 30 square shape LSD papers, which were sent, are not examined by the C.A. All papers were independent sheets and hence, in order to hold that they were LSD, their examination is must. Unlike a powder or homogeneous substance, there cannot be examination of sample to conclude that entire seized article is contraband. In absence of examination of all sheets, it cannot be said that all sheets were LSDs.

7. The papers were sent to the C.A. with pouch. It will be difficult to accept the contention of the learned APP that what was received by the C.A. and returned, there is a difference of 0.3 grams and it should be treated as commercial quantity. In absence of examination of all papers, to draw such inference, is not permissible. Such finding is inevitable in view of the fact that in absence of any proof of all papers being LSD, no such mathematical calculation could help prosecution to prove that contraband seized is of commercial quantity.

8. Considering departure done by the legislature to the general principle of bail is rule and jail is exception, the application thereof

must be on the basis of *prima facie* conclusive evidence to show that quantity of seized contraband is a commercial quantity. In absence of any such material, application of rigors of Section 37 of the NDPS Act would be unjustified.

9. Having regard to the afore-stated facts, since *prima facie*, there is no material on record to indicate that the contraband LSD seized at the instance of the Applicant is of commercial quantity, rigors of Section 37 of the NDPS Act have no application. After conclusion of investigation and with filing of charge-sheet, there remains no reason for detaining Applicant in custody by way of pretrial sentence. Hence, following order:

ORDER

(i) The Bail Application stands allowed in connection with F. No. SG/INV-02/2024/SIIB (APSC) registered at Special Investigation and Intelligence Branch (SIIB), Airport Special Cargo, Mumbai Customs Zone-III, Mumbai (Now Special Case No.1829/2024);

(ii) The Applicant be released on bail on furnishing P.R. Bond of Rs.30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court;

(iii) The Applicant shall attend the Special Investigation and Intelligence Branch (SIIB), Airport Special Cargo, Mumbai Customs Zone-III, Mumbai once in a month, preferably on the first day of every month till framing of the charge;

(iv) The Applicant not to interfere into the evidence of the prosecution in any manner whatsoever;

(v) The Applicant to attend all the dates of hearing before the Trial Court except exempted by a specific order by the Trial Court;

10. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

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