

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2221 OF 2025

Shakib Hanif Shaikh ...Applicant

Versus

The State Of Maharashtra ...Respondent

Mr. Sherali S. Khan *a/w Azfar Khan, for the Applicant.*

Ms. Poonam P. Bhosale, *APP for the State-Respondent.*

API – Amol Kadam, *A.N.C. Worli Unit, is present.*

CORAM : DR. NEELA GOKHALE, J.

DATED : 29th JANUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No.6 of 2024 dated 24th January 2024 registered with ANC, Worli Unit, Mumbai for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances, Act 1985 (for short, “NDPS Act”).

2. There are in all five accused. Accused Nos. 2 and 5 are released on bail. The present Applicant is Accused No.1.

3. While the officials of the ANC, Mumbai were on patrolling duty, they found the Applicant lurking in suspicious

circumstances. After following the due process of the NDPS Act, the Applicant was searched and 100 grams of Mephedrone (MD) was found from his person, pursuant to which the FIR was registered and, in that regard, the Applicant was arrested on the same day i.e. on 24th January 2024.

4. The Applicant made an application seeking bail before the Special Judge (NDPS), City Civil and Sessions Court at Greater Bombay. However, by order dated 5th February 2025, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

5. Mr. Sherali Khan, learned counsel for the Applicant, submits that the Applicant was arrested on 24th January 2024 and till date, he has suffered almost two years of incarceration. The charges are framed; however, the recording of evidence is yet to commence. Mr. Khan further submits that there is non-compliance of the various provisions of the NDPS Act, including Sections 42 and 50 of the said Act. He also

submits that there is a violation of the provisions of Cr.P.C. pertaining to the selection of the panch witnesses, namely that the persons called as panchas are from the vicinity of the Respondent's office itself and not from the spot where the search was effected. He thus submits that there is non-compliance of the Cr.P.C. as well. He submits that the Applicant has suffered long incarceration and on this ground, he deserves to be enlarged on bail.

6. Ms. Poonam Bhosale, learned APP, submits that the charges are framed and the trial is likely to commence and conclude soon. There are as many as 19 witnesses that the prosecution intends to examine. She however, concedes that there are no antecedents pertaining to the Applicant. She has also pointed to the statement of the bank accounts of the Applicant maintained by him in the Bank of Maharashtra and it appears that he has received certain amounts from Accused No.2. Accused No.2 is alleged to be the supplier of the contraband. She thus submits that there is evidence to

indicate the complicity of the present Applicant in the offence and hence, the Bail Application be rejected.

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

8. I have also examined the orders enlarging Accused Nos.2 and 5 on bail. Considering the length of incarceration of the Applicant i.e. two years and considering the fact that the recording of evidence has not commenced, I am inclined to enlarge the Applicant on bail on certain conditions. Admittedly, there are no antecedents pertaining to the present Applicant and hence, it is not likely that he will repeat the same offences. Accordingly, 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)