

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2370 OF 2025**

Mohd. Murtuza Mohd. Mustafa Khan	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Amol M Thombre a/w Vishal S. Sarode and Aakash K., *for the Applicant.*

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

PSI – Amit Ghogare, ANC Worli, Mumbai, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 11TH FEBRUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 50 of 2024 registered with the ANC Worli Unit, for the offences punishable under Sections 8(c), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS').

2. The facts of the present case, in brief, are that there are in all five accused involved in the present case.

Accused Nos.3, 4 and 5 have been enlarged on bail. The case of the prosecution is that the ANC Worli Unit, while on patrolling duty found both the Applicant and his son in suspicious circumstances. On suspicion they apprehended both of them. 60 bottles of Codeine Phosphate and Triprolidine Hydrochloride Syrup 100 ml ONEREX cough syrup were recovered from the conscious possession of the Applicant and 240 bottles of Codeine Phosphate & Triprolidine Hydrochloride Syrup 100 ml OEREX cough syrup were recovered from the possession of his son. On the statement of the Applicant's son Accused Nos.3, 4 and 5 were arrested. However, there was no recovery made from them. The Applicant and his son were arrested pursuant to registration of the FIR.

3. The present Applicant had made an application seeking bail before the NDPS Special Judge, City Civil & Sessions Court, Greater Bombay, however by order dated 15th May, 2025, the said application was rejected. Hence, the

Applicant has filed the present Bail Application for the reliefs as prayed.

4. Mr. Amol Thombre, learned counsel for the Applicant, submits that there are violation and non-compliance of the provisions of the NDPS Act, made by the police officials. There is a non-compliance of Section 50 and 52A of the NDPS Act. He further submits that the date given by the Magistrate for inventory was on 13th September, 2025, however, the inventory records that the same was done only on 20th September, 2025. There is no explanation or justification given by the investigating agency for the same. He further submits that the Applicant is in custody for past almost one and half years without the charges being framed. Thus, even on the ground of long incarceration, the Applicant deserves to be enlarged on bail.

5. Ms. Poonam Bhosale, learned APP, submits that 60 bottles of Codeine Phosphate and Triprolidine Hydrochloride Syrup were recovered from the conscious possession of the Applicant, which is a commercial quantity. She submits that

the CA report is also tested positive. She also refused the claim of the Applicant that there were various non-compliances of various provisions of the NDPS Act. Insofar as the objection regarding delay in inventory is concerned, she, on instructions, submits that although a date of 13th September, 2025, was given by the Magistrate, the Investigating Officer however, was out of Mumbai, hence, the next date was sought from the clerk of the Magistrate. However, she concedes that there is nothing on record to indicate the same change.

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

7. Admittedly, the Applicant is in custody since 7th September, 2024, without the Applicant being afforded a trial yet. Even the charges are not framed. Admittedly, there are no antecedents against the present Applicant. Furthermore, there is no sufficient explanation insofar as the extension of the date of inventory is concerned. Although Ms. Bhosale has

attempted to demonstrate that the clerk of the Magistrate has extended the date, there is no material found on record to demonstrate the same.

8. In a series of judgments, the Supreme Court has observed that long 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, 1985 may, in such circumstances, be considered. Since the present Applicant has also suffered incarceration of almost one and half years, I am inclined to enlarge the Applicant on bail only on the ground of long incarceration. It is accordingly 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 Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iii) The Applicant shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m., till the charges are framed;

iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

v) The Applicant shall not leave India, without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and 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 Police Station concerned;

viii) The Applicant to co-operate with the conduct of the trial;

ix) 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 learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)