

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2746 OF 2025

Vinod Pratapsingh Girase	...Applicant
<i>Versus</i>	
Union Of India And Anr.	...Respondents

Adv. Murtaza Najmi a/w Adv. Archana Gaikwad a/w Adv. Nancy
Kanungo a/w Adv. Eramnisha Shaikh, for the Applicant.
Adv. Neha Patil, APP, for Respondent No.1 – NCB.
Mrs. S. K. Gajare, APP, for the Respondent No.2 - State.

CORAM: R. M. JOSHI, J.

DATED: 29th APRIL, 2026

PC:-

1. By this application, the applicant seeks his enlargement on bail in connection with Crime No. 19 of 2024 registered with Narcotics Control Bureau (NCB), Zonal Unit, Mumbai for the offences punishable under section 8(c) read with section 21(c), 22(c), 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. It is the case of the prosecution that, on 08.08.2024, acting on specific information provided, the NCB officials intercepted a consignment of cough syrup containing Codeine Phosphate and Triprolidine Hydrochloride, and the present applicant was found

to be the intended recipient and carrier of about 4,800 bottles of the said contraband. The total quantity of Codeine phosphate and Triprolidine Choco syrup allegedly involved is stated to be approximately 537.60 kg, which is much above the notified commercial quantity. It is further alleged that the applicant along with other co-accused persons was involved in illegal trafficking of narcotic substances and had used false identity details to conceal his involvement. On the basis of the report lodged by the concerned officer, the crime came to be registered and the applicant was arrested on 08.08.2024. Investigation is completed and a charge-sheet has been filed.

3. The learned counsel for the applicant submits that present Accused is neither the owner nor possessor of the articles seized. He drew the attention of the court to the chargesheet to show that Accused is a tempo driver who has been hired by the Main Accused for transporting the consignment, so also the main accused is not named in the chargesheet, it's claimed that there is non compliance of mandatory provisions of section 42 of the Act. He further submits that there is non compliance of section 52A of the act regarding search and seizure of the alleged contraband

seized by the officer empowered, not being done in presence of the accused, so also bar u/s. 37 is not applicable to the person Accused of trading commercial quantities of narcotics and the chargesheet does not indicate Accused being indulging in trading of narcotics. It is claimed that voluntary statement of Accused and Co-Accused under section 67 of the Act, regarding their involvement in the offence lacks evidentiary value and except this, there is no other evidence to accept involvement of applicant in this crime. He finally submits that the Accused has been in jail since 08/08/2024, he has no criminal antecedents and it's unlikely that he will commit crime, if released on bail. In order to substantiate the above submissions he places reliance on the following judgements, namely *Vihaan Kumar Vs State Of Haryana and anr, (2025) 5 SCC 799*, *Rupesh Pradip Bharuka vs State of Maharashtra and Anr, 2025:BHC-AUG:14722-DB*, *STATE BY (NCB) BENGALURU vs PALLULABID AHMAD ARIMUTTA AND ANR, SPL(CRL.) NO. 242 OF 2022*, *Ravi Manoj Rai vs Union of India and Anr., 2025:BHC-AS:6594*

4. The learned APP opposes the above contentions and submits that huge quantity of contraband is involved in the present crime,

attracting the rigours of Section 37 of the NDPS Act, and that a strong prima facie case is made out. He draws attention of court to the chargesheet, to submit that there is evidence in form of statements of witness showing present applicant having approached the courier service in regard to the consignment in question and that there is recovery of aadhar card of co-accused Abrar from the Applicant. It is further submitted that, considering the gravity of the offence and the quantity involved, there is a likelihood of present applicant tampering with evidence or influencing witnesses if released on bail.

5. There cannot be any dispute made with regard to the compliance of Section 42 of the Act is concerned, it is appearing prima facie from the record that after the receipt of specific information to the concerned Officer with regard to the Applicant collecting 30 boxes of Codeine Phosphate and Triprolidine Hydrochloride syrup, the same was reduced in writing in compliance of section 42(1) of the Act, raid was conducted and total of 537.60 kg of Codeine Phosphate and Triprolidine Hydrochloride syrup was recovered from VRL Logistics Ltd, Vithalwadi-Ulhasnagar. As far as compliance of Section 42(2) of

the Act is concerned, there is sufficient material on record to indicate that the immediate superiors were duly informed about the entire action being taken. This Court, therefore, finds no infraction with regard to the procedure contemplated by Section 42 of the Act.

6. At this stage, grounds of arrest were explained to him, after giving him notice under section 67(C) of the Act. On his person, 2 mobile phones and a copy of Aadhar Card of. Co-Accused Abrar Momin came to be seized. From VRL Logistics Ltd, a total of 537.60 kg of contraband articles came to be seized and the contraband was identified as “Codeine Phosphate and Triprolidine Hydrochloride syrup”, stated to be used for sale. This indicates that the applicant has nexus with the commercial quantity of contraband which came to be seized as he was found to be the receiver and carrier of the consignment of contraband seized in question. So also the statements of witness Naresh Chabbria shows that present Applicant along with other Co-Accused came to collect the seized contraband articles from VRL Logistics Ulhasnagar and stored it at Ramesh Kadu Chawl, C-wing, Aatmaram Nagar, Ashela Pada, Ulhasnagar- 421306 at relative

place in order to sell it to local customer as per the say of Co-Accused Abrar Momin.

7. In so far as role of the Present accused is concerned, the perusal of chargesheet prima facie indicates that the appellant was in conscious possession of the contraband, the aadhar issued by him of the co-accused Abrar Momin was forged, upon asking for identification by manager of VRL Logistics Ltd, namely Naresh Chabbria, he presented a fake/forged aadhar card issued in name of co-accused Abrar Momin which indicates that the knowledge of presence of contraband, seized from VRL Logistics Ltd in question was within his knowledge and he had conscious knowledge of the same. In the voluntary statement of the manager of VRL Logistics Ltd, namely Naresh Chabbria, he identifies the present applicant to be the same person who came to his office along with other co-accused Abrar Momin on 06/08/2024, inquiring about the status of the said consignment. The further perusal of record also shows that co-accused Abrar Momin previously told the present applicant about the consignment of contraband articles to be delivered by him to other co-accused Akash Patekar and since 3-4 months present applicant was working as a carrier to transport parcels

containing illegal drugs to different locations on say of co-accused Akash Patekar and co-accused Abrar Momin. This shows his involvement in procurement, transportation and possession of the consignment of contraband articles seized from VRL Logistics Ltd.

8. Moreover, on the basis of CDR Analysis it was discovered that the present applicant was in constant touch with other Co-Accused, indicating Applicant conspired with other Co-Accused in commission of crime. As far as CA Report is concerned, the sealed sample marked as "M11-S1, M12-S1, M13-S1, M14-S1, M15-S1, M16-S1, M17-S1, M18-SI, M19-S1 & M20-S1" tested positive for the presence of Codeine phosphate and Triprolidine Hydrochloride, there by confirming the alleged Contraband Article.

9. With regards to non compliance of section 52A of the Act with regards to prescribed procedure being not followed properly is concerned, Section 54 of the NDPS Act can be made reference to as it permits the Court to draw a presumption that the accused has committed an offence under the Act if he is found in possession of any narcotic drug or psychotropic substance and

fails to satisfactorily account for such possession. This presumption operates unless and until it is rebutted by the accused during the course of trial.

10. Thus, where possession of contraband is established and no satisfactory explanation is offered, a prima facie inference arises against the accused. In such circumstances, it would lead to a bizarre situation if mere non-compliance or delayed compliance of Section 52A is treated as sufficient to vitiate the trial or to grant bail, despite the existence of such statutory presumption. Such an interpretation would defeat the legislative intent underlying the Act. Also, reference can be made to judgment of Hon'ble Supreme Court in case of **NCB vs Kashif, (2024) 11 SCC 372**, wherein discussion on the above point is summarised by Hon'ble Supreme Court as under:

"50. The upshot of the above discussion may be summarized as under: -

50.1 The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object, and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally,

which may ultimately frustrate the object, purpose, and Preamble of the Act.

50.2 While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

50.3 The purpose of insertion of Section 52A, laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

50.4 Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity, which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

50.5 Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

50.6 Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, also the statutory presumption permissible under Section 54 of the NDPS Act.”

11. Having regard to the stringent provisions contained in Section 37 of the Act, it is well settled that bail can be granted only where there is prima facie material indicating non-compliance with mandatory provisions of the Act of such a nature as would vitiate the seizure itself. Mere irregularities or procedural lapses, capable of being explained by the prosecution during trial,

would not suffice to satisfy the twin conditions prescribed under Section 37 of the Act.

12. In the present case, no infraction of any core or mandatory provision of the Act has been demonstrated so as to vitiate the seizure or render the prosecution case untenable at this stage. In the absence of such material, this Court is not persuaded to record its satisfaction that there exist reasonable grounds for believing that the Applicant is not guilty of the alleged offence, or that he is unlikely to commit any offence while on bail. Consequently, this Court does not find it a fit case for the exercise discretion in favour of the Applicant. Hence, following order :-

ORDER

The Bail Application stands dismissed.

(R. M. JOSHI, J.)

VDMokal/-