

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3591 OF 2025**

Shahnawaz Salim Ahamad ...Applicant
Versus

State of Maharashtra ...Respondent

Mr. Kamlesh Satre i/by Nilesh S. Bangar, *for the Applicant.*
Mr. Mayur S. Sonavane, *APP for the Respondent - state.*
PSI – Santosh Patil, ANC Kandivali Unit, Mumbai, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 16TH FEBRUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 68 of 2024 dated 24th February, 2024 registered with the ANC Kandivali Unit, for the offences punishable under Sections 8(c) read with Section 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**NDPS**').

2. The Applicant made an application seeking bail before the Special Judge (NDPS), Brihanmumbai City.

However, by order dated 28th July, 2025, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the relief as prayed.

3. On 9th November, 2024, while the police officials were on patrolling duty, they found four persons lurking in suspicious condition near M.J. Gupta Auto Parts, Mahakali Nagar, next to Tata Power House, Malvani, Malad (W). Finding their conduct suspicious, the police stopped and intercepted them. After following the due process prescribed under the NDPS Act, upon conducting a search, it was found that the Applicant was carrying 270 grams of heroin in his pocket. The said contraband was also recovered from other accused persons. However, since Accused Nos.3 and 4 only held 31 grams and 11 grams of heroin respectively, which constitutes non-commercial quantities, they were enlarged on bail by the learned Sessions Court. The Applicant was arrested on 9th November, 2024, pursuant to registration of the FIR.

4. Mr. Satre, learned counsel for the Applicant, submits that the weight of the contraband i.e. heroin, was taken along with the plastic pouch in which it was found and that the weight of the pouch ought to have been excluded. He further submits that the Applicant is in custody since 9th November, 2024, without the charges being framed. He further submits that the co-accused have been enlarged on bail and, therefore, the present Applicant also deserves to be enlarged on bail.

5. Mr. Sonavane, learned APP representing the State, submits that the quantity of heroin recovered from the Applicant is commercial quantity. He further submits that all necessary statutory compliances have been duly carried out by the police officials. In these circumstances, he prays that the application be rejected.

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

7. 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.

8. Admittedly, there are no criminal antecedents insofar as the the present Applicant is concerned. The quantity of heroin recovered from the possession of the Applicant is 270 grams, which is over and above the commercial quantity. However, since the Applicant is incarcerated for the almost one and half years without the charges being framed, I am inclined, on the ground of long incarceration, to enlarge the Applicant on bail.

9. In these circumstances, I am inclined to enlarge the Applicant on bail. 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.;
- 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 the State of Maharashtra, without the permission of the Trial Court;

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

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

viii) 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;

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

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

10. Application is allowed in the above terms and is accordingly disposed of.

11. 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)