

S.S.Kilaje

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3630 OF 2025**

Zahir @ Saad Gani Khan

... Applicant

VERSUS

State Of Maharashtra

... Respondent

Mr. Taraq Sayed a/w. Mr. Anish Pereira, Ms. Ashwini A., Mr. Aryan Kotwal, Advocate for Applicant.

Mr. Makarand Patil, APP for Respondent-State.

PSI – Mr. Pankaj Khopade, Khondhwa Police Station, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th APRIL, 2026.

P.C. :

1. By this application, the Applicant is seeking regular bail in C.R.No. 1100 of 2024 registered with Kondhwa Police Station, Pune, for the offences punishable under Sections 8(c) r/w. 22 (c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

2. It is prosecution's case that on 27.09.2024, based on secret information, police apprehended applicant and co-accused. In their personal search, police found 58 gm. Mephedrone.

3. It is contention of learned counsel for the applicant that in seizure panchnama it is mentioned that search of the applicant was taken in the presence of panchas but it was not taken by authorized officer. As

S.S.Kilaje

per the mandates of provisions of NDPS Act, the search shall be taken by the authorized officer and requested to allow the application.

He relied on : *Samir Shahjahan Shaikh Vs. State of Maharashtra in B.A.No. 2251 of 2025; Amir Gulab Mulani Vs. The State of Maharashtra in B.A.No. 3274 of 2023; Sunday Eziko Ezagwu Vs. The State of Maharashtra in B.A. No. 3318 of 2023; Usman Anwar Ali Shaikh Vs. The State of Maharashtra in B.A.No. 1916 of 2022; Farooq Mohd. Naim Chaudhary Vs. Union of India & Anr. in B.A. No. 350 of 2022; Mohd. Hussain Babamiyan Ramzan Vs. State of Maharashtra in Criminal Appeal No. 445 of 1992 .*

4. It is contention of learned APP that at the time of taking search of the applicant, Gazetted Officer was present and the search was taken in his presence. So, there is no violation of provisions of NDPS Act, commercial quantity of Mephedrone was found in the possession of the applicant. If the applicant is released on bail, he may abscond or threaten prosecution witnesses. Hence, requested to reject the application.

5. I have heard both the learned counsel. Perused chargesheet and documents produced on record. In seizure panchanama it is recorded that the applicant's search was taken in presence of panchas but it was not specifically mentioned by whom the said search was taken as per Section 42 of NDPS Act. The search must be taken by the Gazetted Officer. As in

S.S.Kilaje

seizure panchanama, it is not mentioned that it was taken by the authorized officer. Mere presence of authorized officer at the spot does not suffice. This Court has taken the same view in ***Amir Gulab Mulani Vs. The State of Maharashtra***. The applicant is behind bars for more than two years and five months. He has no antecedents under the NDPS Act and I pass following order.

ORDER

- i. The applicant be enlarged on bail in C.R.No. 1100 of 2024 registered with Kondhwa Police Station, Pune, on executing P.R.Bond of Rs. 30,000/- on furnishing one or two sureties in the like amount.
- ii. The applicant shall attend the concerned police station as and when required.
- iii. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The application is allowed in the aforesaid terms and is accordingly disposed of. All pending applications, if any, disposed of.

7. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations

S.S.Kilaje

made in this order.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)