

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3712 OF 2025

Saddaf @ Chapad Abdul Rehman Ansari	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Ms. Lochan Chandka a/w Rounak Naik, *for the Applicant.*
Ms. Megha S. Bajoria, *APP for the Respondent - State.*
API – Anil Raypure, Nizampura Police Station, present.
API – Dhananjay Marne, Cuff Parade Police Station, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 27TH JANUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 293 of 2022 dated 14th December, 2022 registered with the Nizampura Police Station, for the offences punishable under Sections 353, 328, 273, 276 of the Indian Penal Code, 1860 ('IPC'), Sections 8(c), 22 and 29 of the Narcotic Drug and Psychotropic Substances Act, 1985 ('NDPS'), Sections 18(A), 18(a)(4), 18(c), 27(b)(ii), 27(d) of the Drugs and Cosmetic Act, 1940,

Sections 4 and 25 of the Arms Act, 1959 and Sections 37(i) and 135 of the Maharashtra Police Act, 1951.

2. The case of the prosecution, in brief, is that while the police were on patrolling duty they found two persons lurking in suspicious circumstances waiting for a certain vehicle. There were some bags in their possession. On being intercepted, one of the two persons namely the Applicant herein took out a knife from his waist and gestured at the police, threatening them that they will be killed if they proceeded further. He made a hue and cry and people in the street started to run away. The police squad was able to pacify and apprehend the two accused including the present Applicant. Upon their personal search and after seizing the knife, 108 bottles of Rx Chlorpheniramine Maleate and Codeine Phosphate Syrup 'Maxcoff' 100 ml each and 97 bottles of Rx Chlorpheniramine Maleate and Codeine Phosphate Syrup 'RCX-Care' 100 ml each, were found in the bags. A panchanama was recorded which commenced at 2:30

a.m. on 14th December, 2022 and ended at 03:15 a.m. on the same date. The Food and Drug Inspector was called and her statement was also recorded. The statements of other witnesses were also recorded. The incident was also recorded in the general diary and the Applicant and the co-accused were arrested on the same date i.e. on 14th December, 2022.

3. The Applicant made an application seeking bail before the Special Judge (NDPS), Thane, however, by order dated 20th April, 2023, the said application was rejected. Hence, the Applicant has filed the present Bail Application for the reliefs as prayed.

4. Ms. Chandka, learned counsel for the Applicant, submits that the contraband was not seized on the spot nor even measured or weighed. Hence, tampering of the said contraband cannot be ruled out. She submits that the contraband was in custody of officers for six hours without seizure. She further submits that there is non-compliance of Section 42(2) of the NDPS Act. She further submits that the

Applicant was not apprised of his rights under Section 50 of the NDPS Act and there is non-compliance of Section 52A as well. She submits that the samples were forwarded for chemical analysis after six days. Till date charges are not framed and the chemical analyzer report is not filed and since the Applicant has already undergone three years of incarceration, this is a fit case for grant of bail to the Applicant and accordingly, prays that the Applicant be enlarged on bail.

5. Ms. Bajoria, learned APP representing the State, has taken detailed instructions from the Investigating Officer. She has taken me through the first panchanama recorded at 2:30 a.m. on 14th December, 2022 and ended at 03:15 a.m. on the same date. She also took me through the second panchanama, which commenced at 09:00 a.m. and ended at 12:00 p.m. She has taken me through the statement of the Food and Drug Inspector and statements of other witnesses, who have stated that they saw a scuffle between the Applicant

and co-accused on the one hand and the police on the other hand. She has placed on record the general diary details which also records the entire incident including the wielding of knife, seizure of knife and seizure of the contraband. She has attempted to explain the delay between discovery of contraband and its seizure. She submits that this is a serious offence and apart from the offence under the NDPS Act, Section 328 of the IPC is also invoked, which carries a maximum sentence of 10 years. She also placed on record the details regarding antecedents of the Applicant. The Applicant has antecedents under the Arms Act and the IPC.

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

7. Admittedly, the first panchanama is badly worded. In the first paragraph, the panchanama describes the incident as already having been taken place but in the second paragraph it records that the incident has taken place in

presence of the Panch. To explain this dichotomy, Ms. Bajoria has attempted to show me the statement of the Food and Drug Inspector and that of a rickshaw driver who has recorded his statement as a witness. The said witness has also described the incident in vivid detail. However, the fact remains that the original panchanama itself, is flawed. Thereafter, Ms. Bajoria states that the general diary records the entire incident in detail and also records seizure of contraband at that very spot. However, the general diary details also appear to be recorded at 02:30 am. while the panchanama ended at 03:50 am. Admittedly, there are four antecedents against the Applicant. However, in the present incident itself there are too many flaws in the compliances of the provisions of the NDPS Act, to justify his continued incarceration for a period of more than three years. There is reason to believe that *prima facie*, the Applicant may not have committed the alleged offence.

8. For the reasons aforesaid, 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., 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)