

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

CRIMINAL BAIL APPLICATION NO.3867 OF 2025

Imran Akbar Khan

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Rohit Gupta a/w Mr. Gopal Singh, Mr. Aaditya Urankar & Mr. Vikas Tiwari, for the Applicant.

Smt. Madhavi H. Mhatre, APP for the Respondent-State.

Mr. Bajrang Jagtap, API, Bandra Police Station, Mumbai, present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 30th JANUARY, 2026

P.C. :-

. Present Application is filed for grant of bail to the Applicant in NDPS Special Case No.1666 of 2023 arising out of C.R.No.696 of 2023 registered with Bandra Police Station, Mumbai under Sections 8(c) and 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2) Heard Mr. Gupta, the learned Counsel for the Applicant and Smt. Mhatre, the learned APP for the Respondent-State. Perused the record.

3) The prosecution case is that, on 05/05/2023, at about 1.30 hours, near Rahul Nagar Masjid, the informant Mr. Vaibhav Patil - Police Constable and the police members were doing special patrolling to detect the case of prohibited contraband and to take action, accordingly. At that

time the Applicant was present there in a suspicious manner and he was holding a blue plastic carry bag. The police doubted the Applicant. On seeing the police the Applicant tried to run away. Therefore, the police apprehended and police inquired with him. The Applicant avoided to disclose about the substance he was carrying the plastic bag. Therefore, two panchas were called and the bag was search. About 58 grams mephedrone was found in the bag. The police seized the same and recorded the panchanama. Thereafter, the report was filed and the aforesaid crime came to be registered. The Applicant was arrested for possessing the contraband. Investigation transpired that the accused no.2 was also involved in the crime. Hence, the A-2 was arrested. On completion of investigation, the police submitted the charge sheet.

4) Mr Gupta, the learned Counsel for the Applicant submitted that, there are various inconsistencies in the investigation material. Specifically, he has pointed out that as per the panchanama, the contraband was kept in a transparent plastic packet and it was packed and sealed in *Pista* colour packet. But when the same sealed packet was referred to the Magistrate for the purpose of inventory, the forwarding letter mentioned that it was a *Khaki* colour sealed packet. He submitted that, when the Applicant was allegedly apprehended and detained, exactly at the same time, his mother was in hospital and subsequently she expired on the same day at about 3.00 p.m. In these circumstances, the Applicant was not expected to be present at the spot with the contraband. Therefore,

it is highly probable that just because the Applicant had antecedents, he was picked up and booked in this case. In the wake of above, according to the learned Counsel, there is no *prima facie* case against the Applicant. Therefore, the Applicant may be released on bail.

5) In reply, Smt. Mhatre, the learned APP strongly submitted that, there is ample evidence which show that the Applicant was found in possession of 58 grams of the contraband which is a commercial quantity. Except the forwarding letter for the purpose of the inventory, in all other relevant documents it has been consistently stated that the seized contraband was packed and sealed in a *pista* colour packet. As such, the mentioning of the word *Khaki* packet in the forwarding letter for the purpose of inventory nothing but a mistake. Therefore, the Applicant cannot be allowed to take advantage of that mistake and seek bail, claiming that he was innocent. In all 19 cases have been registered against the Applicant and out of it, 7 cases are under the MDPS Act. Therefore, bail may be refused.

6) I have considered these submissions in the light of the material on record and find substance in the submissions made by the Mr Gupta, the learned counsel for the Applicant. As recorded in the Spot Panchnama, the packing and sealing the contraband article is concerned. As noted at the time of the Spot Panchanama, the seized contraband was packed and sealed in a *pista* colour packet. However, the forwarding letter for the purpose of inventory stats that the contraband was packed and sealed in a

Khaki colour packet. As per the Spot Panchanama, the contraband was found in a transparent plastic packet and it was kept in the same packet after its inspection. However, the inventory recorded that, the contraband was found in white colour plastic packet. Meaning, there is no mention of the word 'transparent'. According to the prosecution, one more person was present alongwith the Applicant at the same place and he was also holding a bag like the Applicant. However, there is not whispering by the prosecution as to why the police did not apprehend that person, as to how he got disappeared from the spot and why he was not chased. Thus, this raises a prima facie serious doubt as to whether the contraband allegedly seized from the Applicant was the same contraband that was produced before the Magistrate for the purpose of the inventory. In the wake of the above, whether, the Applicant was found in possession of the contraband or not, is a question of trial. Thus, the Applicant has made out a case for bail on merits. As such, the twin conditions stated in Section 37 of the NDPS Act cannot be applied to him, although he has antecedents.

7) In view thereof, I am inclined to allow the Application. Hence, following Order.

:: ORDER ::

- (a) The Applicant - Imran Akbar Khan shall be released on bail in connection with C.R. No.696 of 2023 registered with Bandra Police Station, Mumbai on his furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

- (b) The Applicant shall report to the Bandra Police Station, Mumbai, on first Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of the trial.
 - (c) The Applicant shall cooperate with the trial Court for expeditious trial and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.
 - (d) The Applicant shall not temper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
 - (e) The Applicant, upon being released on bail, shall place on record of the trial Court the details of his contact number and residential address with updates in case of any change.
- 8) With the above observations, the Bail Application is disposed of.
- 9) It is made clear that, the observations made in the Bail Application are prima facie in nature and shall not be construed as an expression of opinion on merits. The trial Court to decide the special case on its own merits.

(SHYAM C. CHANDAK, J.)