

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 4613 OF 2025

Vishnu Botla Venkata Sai Teja	...Applicant
<i>Versus</i>	
Union Of India And Anr.	...Respondents

Mr. Sherali S. Khan, for the Applicant.

Mrs. Nayyar Geeta Shrikrishna, Special P. P., for the Respondent
No.1 – UOI.

Mrs. Sangeeta D. Shinde, APP, for the Respondent No.2 – State

CORAM: R. M. JOSHI, J.

DATED: 7th MAY, 2026

PC:-

1. By this application, the present Applicant seeks enlargement on Bail in connection with File No. CUS/POST/SEZ/35/2024-SPIB filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita 2023 (for short, “BNSS”), registered by the Special Postal Intelligence Branch (SPIB), Import-II, Mumbai, New Custom House, Ballard Estate, Mumbai 40000, for the offences punishable under Sections 8(C), 21(C), 22(C), 23(C), 23A, 27A and 28 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. It is the case of the prosecution that on 7th February 2024, Customs examined an imported consignment at the Foreign Post Office, Mumbai, addressed to the Applicant Shri Sai Teja in Hyderabad. The parcel was found to contain a total of 15.43 grams of MDMA (5.20g crystalline and 10.23g tablets). This exceeds the 10-gram threshold fixed for commercial quantity under the NDPS Act. The contraband was seized, and a chemical analysis report on 01.04.2024 confirmed it as MDMA. The Applicant appeared before the Respondent No.1 on 15th January 2025 and admitted his name, address, and mobile number were on the parcel. Following the seizure, an application was moved on 11.03.2024 for conducting proceedings under Section 52A of the NDPS Act, which were subsequently conducted on 15.03.2024. The samples were sent for chemical analysis to the Dy. Chief Chemist at New Customs House, Mumbai. The Chemical Analysis report, received on 01.04.2024, affirmatively identified the contraband as MDMA (3,4-methylenedioxymethamphetamine). Upon completion of the investigation, the Respondent filed a formal Complaint before the Special Judge at the Hon'ble Sessions Court at Mumbai.

3. The learned Counsel for the Applicant submits that here in this case except for the name of the present Applicant and his phone number being found on the parcel, there is absolutely no evidence to connect Applicant to crime in question. It is his submission that the possibility of false implication of the Applicant owing to the enmity with others is not ruled out. He further argued that the evidence on record creates doubt as to whether the contraband seized is of commercial quantity. In this regard, he drew attention of the Court to the panchanama indicating the weight of the contraband with pouch to be 5.20 grams and 10.23 grams. It is his submission by referring to the following judgment of the Hon'ble Supreme Court in a case of *Abuzar Shakeel Khan Vs. The State of Maharashtra in Criminal Appeal Arising out of SLP (Crl.) No(s). 7284/2025* that in case the contraband is weighed with the container, and there is no evidence to show the weight of the container, it cannot be held that it is a commercial quantity of contraband. To support his submissions he placed reliance on the Order of this Court dated 6th March 2026 passed in Bail Application No. 4233 of 2025.

4. It is his contention that the weight of the contraband taken during the inventory panchanama is not relevant for the decision of the case and the panchanama at the time of seizure of the contraband does not indicate that the contraband is of commercial quantity. On these amongst other contentions, he seeks bail.

5. Learned Special P. P. opposed the application by submitting that the Applicant was in conscious possession of the contraband and the constructive possession thereof is sufficient. To support her submission she relied upon following judgments :-

- [1] *AIR 2004 SC 4170, Durgo Bai and another Vs. State of Punjab;*
- [2] *Judgment of the Hon'ble Supreme Court dated 30th August 2000 in a case of T. Thomson Vs. State of Kerala And Anr.;*
- [3] *AIR 2003 Supreme Court 4311, M. Pranjilal Vs. Assistant Directorate of Revenue Intelligence;*
- [4] *AIR 2003 Supreme Court 3642, Madan Lal And Anr. Vs. State of H. P. ;*
- [5] *Judgment of the Hon'ble Karnataka High Court in a case of Anil Kumar Pandey Vs. Union of India dated 26.05.2022 ;*

[6] *Judgment of the Hon'ble Delhi High Court in a case of Ms. Mathews Clare Georgina Vs. Narcotics Control Bureau;*

[7] *025 Live Law (SC) 1197 Jothi @ Nagajothi Vs. The State, Rep. By the Inspector of Police,*

She submitted that *prima facie* there is material on record to show involvement of the Applicant in the crime. It is argued that the defence sought to be raised by the Applicant cannot be entertained at this stage and that considering the apparent evidence on record, section 37 of the Act has application to the instance case.

6. There can not be any dispute made with regard to the propositions to be canvassed on behalf of the Applicant that in case there is no reason to believe the seized quantity is not commercial quantity, embargo of Section 37 would have no application. Here in this case, the prosecution is coming with explanations about the mention in the panchanama of the weight of the contraband with plastic pouch being inadvertent error, and in the facts of the case *prima facie* it deserves to be accepted. There is material on record to show that the contraband seized was sealed and was placed before the Magistrate at the time of inventory panchanama. Before the

Magistrate the contraband was weighed and it was found that the contraband in crystal powder was found to be weighed 5.20 grams whereas in form of tablet weighed at 10.25 grams. There is further evidence in the form of testing report indicating that the net weight of the contraband was above 10 grams. Thus, there is *prima facie* sufficient material on record to indicate that the seized contraband was above 10 grams which is a commercial quantity in case MDMA.

7. This Court therefore finds no substance in the contention of the learned Counsel of the Applicant that here in this case non commercial quantity of contraband came to be seized. Consequently the Judgments/ orders cited on behalf of the Applicant would have no application to the present case. Once it is held that the contraband seized is of commercial quantity, the embargo of Section 37 would apply to this case.

8. The defence sought to be taken by the Applicant can not be considered at this stage as the same would be taken up during the trial for acceptance or otherwise by the Trial Court. Having regard to the facts of the case *prima facie*, there is

reason to believe that the Applicant was in constructive possession of the contraband in question.

9. In view of the above facts, Applicant has failed to be made out his case for grant of bail. Hence, following order :-

ORDER

Application stands dismissed.

(R. M. JOSHI, J.)

VDMokal/-