

Rohit Ghuge

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4764 OF 2025

Jishan Ahmad Alam Khan

...APPLICANT

VERSUS

State Of Maharashtra

...RESPONDENT

Mr. Chirag D. Sawant i/b Mr. Imran Shaikh, Advocate for Applicant.

Mr. B. B. Kulkarni, APP for Respondent-State.

Mr. Dhulgande, PSI, Taloja Police Station.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th MAY, 2026.

P.C. :

1. By this application, the applicant is seeking regular bail in Crime No. 399 of 2023 registered with Kharghar Police Station, for the offences punishable under Sections 8(c) and 22(c) of The Narcotic Drugs and Psychotropic Substances Act, 1985.

2. It is prosecution's case on 12th November 2023, the applicant was apprehended by the police and during his personal search, police found 55 gm of Mephedrone.

3. It is contention of learned counsel for the applicant that the search of the applicant was taken by a police constable and, as per the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short "NDPS Act"), it should be done by the gazetted officer. Hence, there is a violation of the NDPS Act, and requested to allow the application.

Rohit Ghuge

4. It is contention of learned APP that the Senior Police Inspector i.e. a Gazetted Officer, was present at the time of taking search of the applicant and on his instructions, police constable took the search of the applicant. So there is no violation of the provision of NDPS Act. The commercial quantity of Mephedrone was found in possession of the applicant. If the Applicant is released on bail, he may abscond or threaten prosecution witnesses and requested to present that application.

5. I have heard both learned counsel, perused the charge-sheet and the documents produced on record. As per the provisions of NDPS Act search shall be taken by the gazetted officer. In the present case, search was taken by police constable, who was not authorized/gazetted officer. There is violation of provisions of NDPS Act. The applicant is behind bars for more than 2 years and 4 months. There is no progress in the trial.

6. Considering these facts, I pass following order.

ORDER

- (i) The applicant be enlarged on bail in in Crime No. 399 of 2023 registered with Kharghar Police Station, on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station as and when required.

Rohit Ghuge

- (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.

The application is allowed in the aforesaid terms and is accordingly 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 made in this order.

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

(SHIVKUMAR DIGE, J.)