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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

CRIMINAL BAIL APPLICATION NO.56 OF 2026

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Date: 2026.03.25
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Vikas Kumar Gupta @ Vicky

...Applicant

V/s.

Union of India & Anr.

..Respondents

Mr.Taraq Sayed with Mr.Anish Pereira and Ms.Ashwini Achor for
the Applicant.

Mr.S.K. Halwasia with Ms.S.S. Halwasia and Mr.Keshar Thakur
for Respondent No.1.

Ms.S.K. Gajare, APP for the State - Respondent.

CORAM : R.M. JOSHI, J.

DATE : 23RD MARCH, 2026.

P.C. :-

1. The Applicant seeks bail in connection with file
No.NCB/MZU/CR-02/2025 for the offences punishable under
Sections 8(c) r/w 21 (c), 22 (c), 28 and 29 of the NDPS Act,
1985.

2. It is the case of the prosecution that the information
was received with regard to contraband being carried by the

accused. The officers reached to L.T.T. Railway Station and seized the boxes containing 120 bottles of Codeine Phosphate. This recovery was done on 6th January, 2025. In connection with the said crime, the accused was arrested. The Applicant came to be arrested after seeking his custody from Crime No.8 of 2025.

3. Learned counsel for the Applicant submits that here in this case, except for the statement recorded under Section 67 of the NDPS Act, there is absolutely no evidence to connect the Applicant with the crime. By relying upon the judgment in *Toofan Singh vs. State of Tamil Nadu*, it is contended that the said statement is inadmissible in evidence. It is claimed that there is no recovery of any contraband from or at the instance of the Applicant. It is further submitted that the Applicant has been enlarged on bail in other crime and that till date, the said order of bail has not been taken exception to.

4. Learned counsel for Respondent No.1 has filed reply and a copy thereof is served on the other side.

5. Learned counsel for Respondent No.1 laid stress on the

point that the Applicant is habitual offender involved in the offences under NDPS Act. He refers to the affidavit in reply filed on record and more particularly clauses “(D)” and “(E)” thereof. It would be necessary to reproduce the said reply, which reads thus :

*“(D). With reference to Paragraphs VIII, to XIV of the Bail Application, it is respectfully submitted that, it is denied that no nexus exists. Application (A-2) himself disclosed that sale proceeds were received in a Bank of India account (A/c No. 3614481460) belonging to Ritesh Gupta. Supply chain documents linking batches to Varanasi entities. Letters have already been dispatched to Nodal Officers (Reliance JIO, Airtel, BSNL, Vodafone) to obtain certified CDRs and CAF for the mobile numbers provided by the accused. The investigation is "kept open" for supplementary evidence. The fact that applicant was already in custody in CR-08/2025 does not dilute his role; it shows habitual/continuing involvement in similar offences. The applicant was arrested pursuant to a **production warrant lawfully issued** by the competent court. Paper arrest argument is misconceived - production warrant + summons + voluntary statement + formal arrest followed due process. The Applicant's custody in another case does not absolve him from liability in the present offence.*

(E). With reference to Para XV to XX it is respectfully submitted that, It is denied that absence of CDRs or financial records weakens the

*prosecution at the bail stage. Investigation reveals **hawala-based transactions**, which by their nature avoid formal banking channels. Requests for CDRs and bank records have already been issued to concerned service providers and banks, replies whereof are **awaited**. There is ample prima facie material linking the Applicant with the seized contraband, including: Supply from Varanasi, and received payment in Account No. 3614481460 of Bank of India in the name of Ritesh Kumar Gupta and Hawala operator Jalaluddin Khan, Association with absconding accused namely Sarfaraz Nasiruddin Shaikh @ Bablu and Bhola.”*

6. If it is the case of the prosecution that the Applicant is habitual offender, it needs to be explained as to why the immediate action is not taken by the prosecution / Investigating Agency. What only could be attributed is either that Investigating Agency is not serious in the investigation of the crime or that there is no substance in the allegation. This is more so supported by the fact on record that the present Applicant was granted bail in C.R. No.8 of 2025 by an order dated 14th November, 2025. If the Investigating Agency is so serious in opposing the Application, nothing had prevented the Investigating Agency from taking exception to the said order passed by the Special Court as back as in November, 2025. In the

affidavit in reply filed what is being stated is that the Investigating Agency is in process of challenging the said order. This shows complete lethargy on the part of the Investigating Agency in taking prompt actions as recorded herein above. This Court has reason to believe that only for the reason that it was sought to be argued before this Court that in another matter another crime registered against the Applicant bail has been granted, this statement came to be made.

7. This Court has asked specific query to the learned counsel for Respondent No.1 as to whether there is even a lodging number to indicate that such application / proceedings challenging the order passed by the Special Court in C.R. No.8 of 2025 is filed. Learned APP for want of information in this regard was unable to make any statement.

8. Coming to the merits of the case, except for the statement of the co-accused recorded under Section 67 of the Act, there is absolutely no evidence in order to connect the Applicant with this crime. Apart from this, this Court finds substance in the contention of the learned counsel for the

Applicant that inspite of the fact that the offence in question was revealed on 6th January, 2025, the Applicant came to be arrested on 30th October, 2025. This conduct of the Investigating Agency is also more sufficient to show the least interest in investigating the serious crime like the one in hand.

9. For want of any other evidence on record, except for the alleged statement of the co-accused recorded under Section 67 of the Act, this Court finds it appropriate to grant bail to the Applicant. Hence the following order :-

ORDER:

- a). The Application stands allowed.
- b). The Applicant be enlarged on bail in connection with Crime No.2 of 2025, registered with Narcotics Control Bureau, Mumbai for the offences punishable under Sections 8(c) r/w 21 (c), 22 (c), 28 and 29 of the NDPS Act, 1985 on furnishing PR bond of Rs.30,000/- with one or two sureties in the like amount for the satisfaction of the Trial Court.
- c). It is clarified that above observations are *prima-facie* in nature and would not bind Trial Court / parties during trial.

(R.M. JOSHI, J.)