

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 291 OF 2026

Shamshad Fajlu Shaikh

...Applicant

Versus

State of Maharashtra

...Respondents

Mr. Dilip Mishra, with Ayaz Khan, Zehra Charania and Mallika Sharma, for the Applicant.

Mr. Mayur S. Sonavane, APP for the Respondent-State.

Mr. Samrat Wagh, API attached to Meghwadi Police Station, present.

CORAM: R. M. JOSHI, J.

DATED: 5th MAY, 2026.

PC:-

1. The Applicant seeks bail in connection with Crime No. 0113 of 2025 dated 20th February, 2025 registered with Meghwadi Police Station, Brihanmumbai City for the offences punishable under Sections 8(c) and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act')

2. In short, it is the case of the prosecution that on 19th February 2025, a secret information was received. The said information was reduced into writing and communicated to the immediate superiors. On the basis of said information, the premises at Amir Khan Chawl, near Bohari Jamatkhana, Prem Nagar, Jogeshwari (East), Mumbai was raided. It is the case of the

prosecution that the Applicant was present outside the said premises and after seeing the Police Personnel, he fled therefrom. The Police entered the said house and recovered 1195 bottles of 'Onerex' cough syrup, which were sealed and containing contraband. The Applicant came to be arrested from Goa. On conclusion of investigation, charge-sheet came to be filed.

3. Learned counsel for the Applicant, amongst other contentions, including the contention with regard to non-communication of grounds of arrest in the language known to the Applicant, submits that *prima facie*, there is no evidence on record to show involvement of the Applicant in the crime. It is his submission that the premises from which the recovery has been done, is not shown to have been owned by the present Applicant. It is contended that though the signatures of the sister and another person, Irshad were obtained on the seizure panchanama, their statements are not recorded during the course of investigation. He submitted that in absence of any evidence to connect the said recovery with the Applicant, he cannot be kept in jail by way of pre-trial sentence.

4. The learned APP opposes the Application, firstly, by pointing out that there are 7 criminal cases pending against the Applicant out of which 5 cases are registered under the provisions of the NDPS Act. It is submitted that there are statements of witnesses, which show that the Applicant is involved in the sale of the contraband.

5. A specific query was made to the learned APP to show any evidence indicating that the Applicant was in exclusive possession

of the premises from which seizure of the contraband has been done from the charge-sheet. The learned APP was unable to show any such evidence. In view of the said fact, this Court finds substance in the contention of learned counsel for the Applicant that the recovery may not be attributable to the Applicant. Once, such is the evidence collected during the course of the investigation, the embargo of Section 37 of the NDPS Act may not get attracted to the present case. This Court has a reason to believe that the Applicant may not have committed the crime in question. In absence of any evidence to connect the Applicant with the present crime, merely on the ground there are antecedents against him, the bail cannot be rejected to him. Hence, following order:

ORDER

- (i) The Bail Application stands allowed in connection with Crime No. 0113 of 2025 dated 20th February, 2025 registered with Meghwadi Police Station, Brihanmumbai City;
- (ii) The Applicant be released on bail on furnishing P. R. Bond of Rs.30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court;
- (iii) The Applicant is directed to attend the concerned Police Station once in a month, i.e., on the first Monday of every month, for a period of one year from today;
- (iv) The Applicant to attend all the dates of hearing before the Trial Court except exempted by a specific order by the Trial Court;

(v) 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.

6. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

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