

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 650 OF 2026**

Shadab Yusuf Khan ...Applicant
Versus
State Of Maharashtra ...Respondent

Ms. Ashwinii Acharii *a/w Anish Pereira i/b Taraq Sayed, for the Applicant.*

Ms. Gauri S. Rao, *APP for the State-Respondent.*

PSI - Malvekar, *Shivajinagar Police Station, Mumbai, is present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 24th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 612 of 2025 dated 13th August 2025 registered with the Shivajinagar Police Station, Mumbai for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”).

2. There are in all three accused. The Applicant is Accused No.2.

3. It is the case of the prosecution that on 12th August 2025 at about 19:00 hours, while on patrolling duty, the officials received secret information that codeine cough syrup bottles were kept and sold illegally in a public toilet at Plot No.29. Acting on this information and after following the due process of the NDPS Act, a key was recovered from the pocket of Accused No.1 to the locked iron gate leading to the public toilet. When the toilet was opened with the said key, a nylon sack containing contraband was found concealed behind some old furniture. A quantity of 64 sealed bottles of chocolate-colored liquid labeled as Wings Codeine Phosphate and Triprolidine Hydrochloride Syrup (ONEREX-TM Cough Syrup, 100 ml each) were recovered. Accused No.1 was arrested. On his interrogation, he disclosed that the contraband belonged to other persons, namely Accused Nos. 2 and 3 and one Kundan Shele, who were allegedly engaged in the illegal trade of narcotic cough syrups. Based on the statement of Accused No.1, the present Applicant was arrested on 13th August 2025.

4. The Applicant made an application seeking bail before the Special Judge (NDPS) and Additional Sessions Judge, City Civil and Sessions Court, Gr. Mumbai. However, by order dated 4th February 2026, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

5. Ms. Ashwinii Acharii, learned counsel for the Applicant, submits that the Applicant is falsely implicated. The only material against the present Applicant is the statement of the co-accused i.e. Accused No.1, which is inadmissible in law. She also pointed to the statement of Accused No.1's wife, who has stated that Accused No.3 frequently sought the key of the said toilet as he wanted to take his grandmother to the toilet. Thus, Accused No.1's wife has stated that she handed over the key on the relevant date to Accused No.3, who was accompanied by the Applicant. On the basis of this, coupled with the statement of Accused No.1, Ms. Acharii submits that the police have arrested the Applicant. She submits that the

Applicant never had possession or custody of the said key and the contraband does not belong to the Applicant. She thus prays that the Applicant be enlarged on bail.

6. Ms. Gauri Rao, learned APP, contests the Bail Application and states that Accused No.1's wife has revealed that both Accused No.3 and the Applicant had come for the key, although she concedes that the key was ultimately returned to Accused No.1's wife by the Accused No.3. It appears that there is some ambiguity pertaining to the custody of the key in near proximity to the period when the contraband was placed in the toilet. In any case, Ms. Rao submits that the contraband recovered was of commercial quantity and that all these aspects would be considered during the trial. She thus prays that the Bail Application be rejected.

7. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. A plain reading of the FIR indicates that the only material against the present Applicant is the statement of Accused No.1. *Prima facie*, there is nothing to indicate, at this stage, that the key to the toilet was in the exclusive possession of the present Applicant. In fact, Accused No.1's wife has clearly stated that it was Accused No.3, who had requested her for custody of the key to take his grandmother to the toilet. The key was thus retained by Accused No.3 and not the Applicant. In these circumstances, there is reason to believe that the Applicant may not be complicit in the offence as alleged. Ms. Rao also concedes that there are no antecedents against the present Applicant.

9. In view of the aforesaid, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

- ii) The Applicant shall attend the Police Station concerned, on first Monday of every month between 10:00 a.m. and 12:00 p.m., till the charges are framed. He shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant holds a passport, he shall deposit the same with the Police Station concerned;
- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from

time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

10. Application is allowed in the above terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)