

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.681 OF 2026

Naved Abdul Hamid Batatawala

...Applicant

V/s.

The State of Maharashtra

...Respondent

Adv. Taraq Sayed a/w Adv. Ashwinii Acharii & Adv. Anish Pereira, for the Applicant.

Ms. Veera Shinde, APP for the Respondent-State.

API – Dr. Deepak Hinde, Malvani Police Station, Mumbai, present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 17th JUNE, 2026

P.C. :-

. Present Application seeks release of the Applicant on bail in connection with FIR bearing C.R. No.810 of 2025 registered with Malvani Police Station, Mumbai for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

2. Heard Mr. Sayed, learned Counsel for the Applicant and Ms.Shinde, learned APP for the Respondent-State. Perused the record.

3. The case against the Applicant is that, on 1st July, 2025 at about 00.10 hours, near M.V. Desai ground, Malvani the Applicant was found in possession of 368 bottles wings 100 ml Codeine Phosphate & Triprolidine Hydrochloride Syrup Onerex Cough Syrup. The co-accused Rizwan Vakil Ansari was associated with the Applicant and he was also found in possession of 342 bottles of the same substance. Each 100 ml bottle contained 200 mg of Codeine Phosphate. Police seized the said bottles and recorded the Panchnama as per the mandates of the NDPS Act etc.

Thereafter, PSI - Mr. Shivaji Mohite, filed a report. Pursuant to which the aforesaid crime came to be registered. Both the accused came to be arrested. On completion of the investigation, charge-sheet came to be filed. The trial Court request to release the Applicant on bail.

4. Mr. Sayed, learned Counsel for the Applicant pointed certain documents on record and submitted that in the said documents it has been categorically mentioned that before apprehending the Applicants at the spot, specific intelligence was received by Mr. Deepak Hinde, PSI that contraband Ganja was being sold at the said spot and therefore, the police team proceeded to the spot. However, as alleged, when the accused were apprehended at the spot by the police team, they were found in possession of the Syrup Codeine Phosphate. In the backdrop, according to Mr. Sayed, the prosecution story is not reliable that the Applicant and his co-accused were found in possession of the contraband. Therefore, the Applicant is entitled for bail.

5. Ms. Shinde, learned APP has not disputed that in the documents referred by Mr. Sayed there is mention that the secret information was pertaining to sale of Ganja. However, when the said mistake was noticed, it was corrected at the time of conducting inventory. Therefore, according to Mr. Shinde, there is no substance in the submissions made by Mr. Sayed. She has submitted that the Applicants have not explained the possession of commercial quantity of the contraband. Therefore, and considering the rider of Section 37 of the N.D.P.S. Act, the Applicant may not be enlarged on bail.

6. I have considered these submissions. Record indicates that, the secret information received by PSI – Mr. Hinde was that Ganja was being sold. The same information was recorded in the station diary and conveyed to the superiors for the sake of leaving the police station to carry out the raid. Even in the summary of the action taken, communicated to the in-

charge Police Inspector, Anti-Narcotics Cell, there is reference of the secret information pertaining to sale of Ganja. However, there is no mention in the said documents that the secret informer had also informed about the place where either Ganja or Codeine Phosphate was being sold. In view of these circumstances, it is difficult to gauge as to how the police could fix the location and exact place where the raid was to be effected. Even in the communication under Section 47 (1) (2) of B.N.S.S. thereby informing the grounds of the arrest to the Applicant, it is stated that huge quantity of *Ganja* was seized from his possession. That apart, in the inventory of the seized property prepared by Mr. Hinde it is stated that the bottles containing the contraband were seized on 04.07.2025. Ms. Shinde, the learned APP has tried to salvage this situation by submitting that the mistake in respect of recording the secret information was latter corrected at the time of the inventory Panchnama. However, this submission cannot be accepted. Because, the Inventory Certificate issued by the learned Magistrate does not specifically state exactly what mistake was rectified.

In view of these circumstances, it is difficult to *prima facie* conclude that pursuant to the secret information the police team had carried out the raid, the Applicant and his co-accused were present at the spot and both the accused were found in possession of the alleged contraband. As such, the rider of Section 37 of the N.D.P.S. Act will not be applicable herein.

7. In view of the above discussion, the Applicant has made out a case for bail. Hence, following Order is passed :-

- (i) Applicant – Naved Abdul Hamid Batatawala shall be released on bail in connection with FIR bearing C.R. No.810 of 2025 registered with Malvani Police Station, Mumbai for the offences punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, on his furnishing P.R. Bond in the sum of Rs.1,00,000/-

with one or two sureties in the like amount.

- (ii) The Applicant shall mark his attendance at Malvani Police Station, Mumbai on the 1st day of each calendar month between 12:00 noon to 4:00 p.m., till the conclusion of the trial.
- (iii) The Applicant shall regularly attend the proceedings before the jurisdictional Court unless exempted by the said Court, for the reasons to be recorded in writing.
- (iv) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witness to prevent them from deposing against him.
- (v) On being released from jail, the Applicant shall furnish his contact number and residential address to the Investigation Officer and shall keep him updated, in case there is any change.
- (vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination to the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the Applicant and the trial Court shall not be influenced by any of the observations made hereinabove.
- (vii) Application stands disposed off in the aforesaid terms.

(SHYAM C. CHANDAK, J.)