

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

BAIL APPLICATION NO. 801 OF 2026

Moshin Mehmmod Khan @ Balla

...Applicant

Versus

State of Maharashtra

...Respondent

Ms. Ashwinii Achari, *with Taraq Sayed and Anish Pereira, for the Applicant.*

Ms. Megha Bajoria, *APP for the Respondent-State.*

Mr. Samrat Wagh, *IO API and Ghadge, PSI (Pairavi), present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 26th FEBRUARY 2026

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 423 of 2025 dated 13th June 2025 registered with the Meghwadi Police Station, Brihanmumbai City for the offences punishable under Sections 8(c) read with 22(B), 22(c) and 29 the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

There are in all six accused persons; the present Applicant is the Accused No.6.

2. The case of the prosecution, in brief, is that, while the police officials of the Meghwadi Police Station, were on patrolling duty, they noticed a person standing and loitering in suspicious circumstances. After following due process under the provisions of the NDPS Act, the said person, namely Mohsin Samshuddin Shaikh (Accused No. 1), was apprehended. During his personal search, 10 grams of Mephedrone was allegedly recovered from his possession. During Accused No.1's interrogation, he revealed that he procured the said contraband from Accused No.2, namely, Tanvir Ahmed Hasan Sidhiqui. Upon interrogation of Accused No.2, there was recovery of 660 grams of MD from the hotel room, which was habitated by the said Accused. He also revealed that he procured the alleged contraband from the Accused No.3, namely, Umer Muktar Sharif. Accused No. 2 also led the police to the place where he had allegedly

concealed the remaining contraband. During the interrogation of the Accused Nos.1 and 2, Accused No.4 was also found and arrested. Though nothing was recovered from the Accused No.4, he revealed that he usually procured contraband from the Accused No.5, namely, Mohd. Halim Mansuri @ Chunnu. He was arrested, who then revealed the name of the present Applicant, namely, Moshin Mehmmod Khan @ Balla. Hence, as per the case of the prosecution, the present Applicant is the supplier of contraband. The Applicant was arrested on 29th June 2025 and is in custody since then.

3. The Applicant filed an application seeking bail before the Special Judge (N.D.P.S.), City Civil & Sessions Court, Greater Bombay. However, by order dated 9th February 2026, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Ms. Ashwinii Achari, learned counsel appearing for the Applicant, submits that there is no material on record to indicate his complicity in the offence. No recovery has been

made from the present Applicant. He is arrested only on the basis of statement of Accused No.5, which is inadmissible in the eyes of law. There are no antecedents against him. Thus, she prays that Bail Application be allowed.

5. Ms. Megha Bajoria, learned APP representing the State in the matter, on instructions from the Investigating Officer, has pointed to the CDRs between the present Applicant and the Accused No.5 from which 10 grams of MD has been recovered. Ms. Bajoria points to the statement given by Accused No.5, which has revealed complicity of the present Applicant. Pursuant to his statement, the Investigating Officer has traced CDRs, which clearly prove Applicant's complicity in the offence. Thus, the arrest of the Applicant is not merely on the basis of statement of the Co-accused but is also backed by the CDR, which reveal his connection with Accused No.5. On this, Ms. Ashwinii Achari, has brought to my notice order dated 11th October 2022 passed by the Co-ordinate Bench of this Court. This Court has held that mere telephonic

conversation or connection in absence of details of the conversation by itself cannot be an incriminating circumstance sufficient to convict the Applicant. She also relied upon a case of *Bharat Chaudhary v. Union of India*¹ in which the Supreme Court has also held that without the transcripts merely CDRs are not sufficient to indict an Accused. She thus, submits that as in the present case, there is no other material except CDRs to connect the Applicant with Co-accused or the offence, the Applicant be released on bail.

6. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. Admittedly, the only connection between the Accused No.5 and the present Applicant is the CDRs. Although the CDRs clearly indicate that the Applicant was regularly communicating with Accused No.5 from whom the contraband has been recovered, there are no transcripts available on record at this stage. Considering the view taken

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by the Supreme Court as well as the Co-ordinate Bench of this Court, *prima facie*, I am of the view that there is a reason to believe that the Applicant may not have committed the offence. Admittedly, there are no antecedents against the present Applicant and hence, it is unlikely that the Applicant will commit the offence, if enlarged on bail.

8. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly 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 Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iii) The Applicant shall also attend the Police Station concerned once in a month on first Monday between 11:00 a.m. to 02:00 p.m. till the charges are framed;

iv) If the Applicant holds a passport, he shall deposit the same with the Police Station concerned

v) The Applicant shall not leave India, without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and 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 Police Station concerned;

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

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

9. The Bail Application is allowed in the above terms and is accordingly disposed of.

10. 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.

(DR. NEELA GOKHALE, J)

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