

Order below Appln. (BA) Exh.46 ..1.. in Spl. Case No.378/2024

MHCC020031482024



Presented on : 09-04-2025

Registered on : 09-04-2025

Decided on : 22-05-2025

Duration : 01 M, 13 Days

**IN THE SPECIAL COURT FOR NARCOTIC DRUG AND PSYCHOTROPIC
SUBSTANCES ACT, 1985, AT GR. BOMBAY**

ORDER BELOW APPLICATION (BA) EXHIBIT-46

IN

SPECIAL CASE NO.378 OF 2024

Jishan Iqbal Shaikh)
Aged : 34 years, Occ : Service,)
R/at : Flat No.2, Jagdish CHS, Friends)
Colony, Nashik.) .. Applicant/accused
No.12

V/s.

The State of Maharashtra)
(At the instance of Sakinaka police)
station, Mumbai, vide Spl. LAC/C.R.)
No.787/2023).) .. Respondent/Prosecutor

Appearance :

Ld. Adv. Mr. Aditya Singh, for the applicant/accused.

Ld. APP Mr. B.G. Rajput, for the respondent/prosecution.

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CORAM : SHRI. MAHESH K. JADHAV
ADDL. SESSIONS JUDGE (C.R.43)

DATE : 22/05/2025

ORAL ORDER

This is an application taken out by applicant/accused No.12 **Jishan Iqbal Shaikh** under section 483 of the Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 for enlarging him on bail in Spl. LAC/C.R. No.787/2023 (now Special Case No.378/2024) registered at Sakinaka police station, Mumbai for the offences punishable under section 8(c) r/w section 22(c), section 27A and section 29 of Narcotic Drug and Psychotropic Substances Act, 1985 (hereinafter referred as “NDPS Act”), section 3 and section 25 of the Arms Act and section 37(1) A, 135 of Maharashtra Police Act.

2. Perused the application, documents filed therewith, say of the learned APP and record of Special Case No.378/2024. Heard, arguments advanced by learned Advocate for applicant/accused and learned APP.

3. Ld. Advocate for the applicant/accused No.12 argued that, this is the first bail application taken out by the applicant/accused after filing of the charge-sheet and no application for grant of bail is pending in High Court or earlier rejected by any Higher Court.

The prosecution case in brief is as under:

4. Ld. Advocate for the applicant/accused submitted that, on 07/08/2023 police from Sakinaka Police station, was on patrolling duty.

They apprehended Anwar Afsar Sayyed (accused No.1) on suspicion. 10 gram Mephedrone (MD) was found in conscious possession of Anwar Sayyed. After inquiry about the source of contraband he disclosed the name of Javed Ali Khan (co-accused No.2) and Mohammad Asif Nasir Shaikh (accused No.3). On the same day Javed Khan and Mohammad Asif Shaikh was apprehended. 60 gram Mephedrone (MD) was recovered from the possession of Javed Khan. 10 gram Mephedrone (MD) and cash of Rs.3,00,000/- was recovered from the conscious possession of Asif Nasir Shaikh. On inquiry about the source of contraband Asif initially discloses name of Hasan Suleman Shaikh (accused No.6), Ajmal and Asif Nasir Shaikh @ Chinna (accused No.8). Thereafter Asif again on inquiry disclose that Iqbal Mohammad Ali Shaikh (accused No.4) took the contraband from him to sale it. Iqbal was apprehended. 20 gram Mephedrone (MD) was recovered from the conscious possession of the Iqbal.

5. On inquiry about the source of contraband Iqbal disclosed the name of Hasan Suleman Shaikh (accused No.6), Ayub Abudul Sattar (accused No.7), Sundar Shaktiwel (accused No.5) and Asif Chinna (accused No.8). Sundar Shaktiwel was apprehended. 10 gram Mephedrone (MD), two mobiles of Nokia Company and cash of Rs.40,000/- was recovered from the conscious possession of Sundar Shaktiwel (accused No.5).

6. On 12.08.2023 police took house search of Asif. 60 gram Mephedrone (MD), weight Machine, seized. On 18.08.2023 Arif Shaikh (accused No.8) was apprehended on 18/08/2023 Samsung Company mobile was seized from him. As per his memorandum dated 21.08.2023 Pistol, 50 gram Mephedrone (MD) and cash of Rs. 4,00,000/- was

recovered. On inquiry about the source of contraband Asif disclosed the name of Nasir Umar Shaikh @ Chacha (accused No.9). Nasir was apprehended. 1 Kg 250 gram Mephedrone (MD) was recovered from conscious possession of Nasir. On inquiry about the source of contraband Nasir disclosed the name of Sajid Shaikh. On house search of Sajid, weight machine note book, bag was recovered.

7. During further inquiry with Asif Nasir Shaikh about the source of contraband, he disclosed the name of Rehan Alam Sultan Ahmed Ansari (accused No.11), Munnabhai and Amir Atik Shaikh (accused No.17).

8. When police apprehended Rehan Alam Sultan Ajar Ansari (accused No.11) alongwith Ajhar Asmat Ansari (accused No.10) 15 Kg 560 gram Mephedrone (MD) was recovered from the conscious possession from Ajhar and Rehan Alam.

9. During inquiry about the source of contraband with Rehan Alam (accused No.11), disclosed that he has procured the substance Mephedrone (MD) from the factory run by Bhushan Patil @ Doctor (accused No.20), Abhi Balkwade @ Jagga @ German (accused No.19) and from Shaikh Jishan Iqbal (applicant/accused No.12). The Shaikh Jishan was apprehended. As per Memorandum panchnama Shaikh Jihan shown the factory wherein Mephedrone (MD) was manufactured. Again, he disclosed the name of Bhushan Patil, Abhi Balkawade runs a factory and also in second disclosure he mentioned the name of Rohit Charudhari (accused No.13) who supplied the Mephedrone (MD).

10. Police get knowledge that, Rohit Kumar Chaudhary (accused No.13) used to supply formula and prepared Mephedrone (MD). On 11/10/2023 Rohit was apprehended as per his Memorandum panchnama the Mephedrone (MD) of 12 Kg 577 gram which was buried under the ground as per the say of Bhushan Patil was seized.

11. Police effected raid from the factory situated at Plot No.35, Gat No.467 1, to 3/2/4 of Shri Balaji Industry Al Thakkar Industrial area Nashik. Police saw that Uma Shankar Yadav was present in the factory. Police in presence of Uma Shankar, took the search of the factory. All the material for preparation of Mephedrone (MD) was found inside the factory. The drums, boiler, buckets, Mug, Machine for preparation of Ice, handglove, etc., admeasuring cost of Rs.268 Crore 75 Lakhs 20 thousand were seized from the factory alongwith Mephedrone (MD).

12. Thereafter, police get knowledge that factory was run by Lalit Anil Patil (accused No.15), his brother Bhushan Anil Patil (accused No.20) and Abhishek Balkavade (accused No.19).

13. Further during investigation, it was revealed that Shivaji Shinde (accused No.14) used to supply the raw material to the factory for preparation of Mephedrone (MD). He was arrested on 12.10.2023. The Lalit Patil was taken into custody for inquiry at Bangalore Karnataka. He was brought at Sakinaka police station and after admitting guilt, he was arrested. One Sachin Wagh (accused No.16) was used to provide help to Lalit Patil from escaping, he has provided vehicle. Sachin Wagh was apprehended. Sachin Wagh in his Memorandum Panchanama dated 24/10/2023 shown the place wherein

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he as per the direction of Lalit Patil concealed the Mephedrone (MD). The said Muddemal 12 Kg 577 gram Mephedrone (MD) was seized. In spite on search of other Mephedrone (MD) thrown in river, it was not traced out.

14. During the investigation, it is revealed that, Harish Panth (accused No.18) has knowledge about the manufacturing Mephedrone (MD) and he provide the formula of Mephedrone (MD) to the factory of Bhushan & Lalit. He was apprehended. As per his memorandum panchanama 55 gram Mephedrone (MD) and cash of Rs.1,50,000/- was recovered from his possession.

15. Bhushan Patil (accused No.20) and Abhishek Balkawade (accused No.19) were in custody of Badgarden Police Station, Pune. As per transfer warrant they were apprehended.

16. It is submitted by the Ld. Advocate for the applicant/accused that, applicant/accused No.12 that only on the statement of co-accused No.11 Rehan Alam Sultan Ajar Ansari, applicant/accused was arrested. There was no recovery from the personal search of the present applicant/accused. He is not a worker of the factory. The memorandum panchnama only reflect that, applicant/accused has shown the factory wherein the contraband was recovered. The co-accused No.20 Bhushan Patil who runs the said factory is the childhood friend of the applicant/accused. Applicant/accused used to supply tiffin to him. The entire charge-sheet did not reflect any documents showing any concern of the present applicant/accused with the said factory. Applicant/accused is not owner of factory not in control over the factory. Therefore, he is not a person

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from whose conscious possession the contraband was recovered. Applicant/accused is the innocent person who is not having any concern with the factory or the contraband recovered from the possession of the co-accused. Applicant/accused is the bread earner of his family. Applicant/accused did not possess criminal antecedents. He is permanent resident of Nashik. Applicant/accused is ready to abide by all terms and conditions which the court may impose. Therefore, Ld. Advocate for the applicant/accused prayed that, applicant/accused be released on bail.

Ld. Advocate for the applicant/accused kept his reliance on the following citations :

No.1 *Ram Singh Vs. Central Bureau of Narcotics, in Criminal Appeal Nos.451-452/2005, dated 28/04/2011 of Hon'ble Bombay High Court.*

No.2 *Nasir Umar Shaikh @ Chacha Vs. The State of Maharashtra, in Criminal Bail Application No.641/2005, dated 09/05/2025 of Hon'ble Bombay High Court.*

This court have gone through the observations made therein.

17. On the other hand, Ld. APP Shri. B.G. Rajput vehemently submitted that, the applicant/accused is a main accused along with the co-accused No.20 Bhushan Patil. He is involved in the crime. There is a chain of drug peddlers which was started from the apprehension of the co-accused No.1 Anwar Afsar Sayyed which is link up to the manufacturing of the factory at Nashik. All the mandatory compliance

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has been complied with. The conspiracy of the applicant/accused with the co-accused are seen from the record. Applicant/accused give memorandum panchnama and shown the place of manufacturing of Mephedrone (MD) i.e. the factory at Nashik. At the instance of the present applicant/accused the factory alongwith the contraband was recovered. Applicant/accused is deeply involved in the crime. The reason to belief is communicated to the superior officers. Near about 133 Kg Mephedrone (MD) alongwith equipment of the preparation of Mephedrone (MD) was recovered at the instance of the applicant/accused. He is deeply involved of the drug trafficking business. All the mandatory compliance has been complied with. If the applicant/accused released on bail there are every chances of repetition of crime as well as tampering and hampering to the prosecution witnesses at the hands of the applicant/accused. Applicant will abscond if he was released on the bail. There is no reasonable ground of believing that applicant/accused is not guilty of the offence on that he is not likely to commit any offence while on bail. Hence, with these and other grounds Ld. APP submitted to reject the application.

Ld. APP kept his reliance on the following citation :

***No.1 Karn @ Karan Kumar Das s/o Samod Das
Vs. State of Maharashtra, in Criminal
Application (BA) No.1135/2023, dated
14/02/2024 of Hon'ble Bombay High
Court at Nagpur Bench.***

This Court have gone through the observations made therein

18. From the matter on record it appears that, applicant/accused is alleged to have committed offence punishable

under section 8(c) r/w section 22(c), section 27A and section 29 of NDPS Act, section 3 and section 25 of the Arms Act and section 37(1) A, 135 of Maharashtra Police Act. Punishment provided for the offence may extend upto 20 years imprisonment and also fine which may extend upto One Lakh rupees. Thus, the offence alleged to have been committed is of grievous nature and severe punishment is provided for same. Considering fact that commercial quantity of contraband recovered from the possession of the applicant/accused and co-accused and nature of offences rigors of section 37 of NDPS Act are applicable to present matter.

19. On scrutinizing the entire record, it appears that, the applicant/accused was apprehended on the statement of co-accused No.11 Rehan Alam Sultan Ajar Ansari. After apprehending applicant/accused he give memorandum panchnama (page number 210 of the charge-sheet) which reflects that, applicant/accused ready to show the place wherein Mephedrone (MD) was manufactured. In the bail application itself applicant/accused took two stands i.e. he is supplier of tiffin service to the factory and another is Bhushan Patil is his childhood friend. If the co-accused Bhushan Patil is childhood friend of the applicant/accused certainly he would not shown the place wherein the Mephedrone (MD) was manufactured. Furthermore, in concern with the supplying of tiffin service, there is no documents produced by the applicant/accused on record. To the contrary, the record reflects that, it is the applicant/accused who link the seller of Mephedrone (MD) with a factory wherein the Mephedrone (MD) was manufactured. At his instance the factory wherein Mephedrone (MD) was prepared has been discovered. Near about 133 Kg Mephedrone (MD) discovered at the instance of the present applicant/accused. Thus,

applicant/accused is deeply involved in this crime in conspiracy with the co-accused. There is compliance of section 42 and section 50 of the NDPS Act which reflect from the charge-sheet. The special report at page number 223 to 230 also reflect compliance of section 57 of the NDPS Act. Here, the involvement of the applicant/accused with the knowledge about preparation of Mephedrone (MD) is seen from the record. The facts and circumstances on which ratio upon the applicant/accused is relied upon in the case of *Nasir Umar Shaikh @ Chacha Vs. The State of Maharashtra* cited supra is altogether different from the facts and circumstances of the present case. In this case there was discovery of factory as well as Mephedrone (MD) at the instance of the present applicant/accused. Applicant/accused is deeply involved in the crime. The contraband seized from the conscious possession of the applicant/accused which is of commercial quantity. There is a sufficient material on record to establish involvement of the applicant/accused in the crime. Applicant/accused failed to show that, he is not guilty of the offences leveled against him. If the applicant/accused released on bail there are every chances of repetition of crime as well as tampering and hampering to the prosecution witnesses at the hands of the applicant/accused. There is every possibility of repetition of crime.

20. In view of mandate of section 37 of the NDPS Act burden is upon the accused to show that, there are reasonable grounds to believe that, he is not guilty of the offence and to satisfy the Court that applicant/accused is not likely to commit similar offence. Applicant/accused has not demonstrated any material to show that there are reasonable grounds to believe that applicant/accused is not guilty of offence alleged to have been committed by him. From the appreciation of the material on record there are reasonable grounds to

believe that, applicant/accused has committed the offence punishable under section 8(c) r/w section 22(c), section 27A and section 29 of NDPS Act, 1985, section 3 and section 25 of the Arms Act and section 37(1) A, 135 of Maharashtra Police Act. Moreover, considering the nature of offence and the matter on record and the fact that, huge quantity of contraband was recovered from the co-accused court is also not satisfied that, the applicant/accused will not commit the similar offence again. As such conditions under section 37 of NDPS Act are not fulfilled and therefore, embargo put by section 37 of NDPS act is not lifted.

21. Prima facie there is no material on record, so as to doubt genuineness of the prosecution case. Prima facie there appear no inherent infirmities or improbability in the prosecution case. Considering the nature of offence the possibility that, after release of the applicant/accused, the applicant/accused may tamper the prosecution evidence or influence the witnesses or may involve in commission of such offences cannot be ruled out.

22. Considering the above facts and discussion and prima facie appreciation of the material on record release of the applicant/accused at this stage is likely to be prejudicial to the interest of the society at large. Liberal approach in grant of bail in such kind of offences under NDPS Act is also uncalled.

23. On prima facie appreciation of the material on record and considering the nature of the offence, gravity of the offence there appear no justifiable grounds for releasing applicant/accused on bail. As

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such the present application is liable to be rejected. Hence, the following order.

ORDER

1. Application (BA) Exh.46 of applicant/accused No.12 **Jishan Iqbal Shaikh** in Spl. LAC/C.R. No.787/2023 in Special Case No.378/2024, is rejected.
2. Application (BA) Exh.46 is disposed of accordingly.

(Pronounced in open Court)

Date : 22/05/2025.



(Mahesh K. Jadhav)
N.D.PS Special Judge
City Civil & Sessions Court,
Gr. Bombay (CR.43)

Dictated on : 22/05/2025
Transcribed on : 22/05/2025
Checked on : 22/05/2025
Signed on : 22/05/2025

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
22/05/2025	12.45 p.m.	Sanjay Baliram Kaskar (Stenographer Grade-I)
Name of the Judge		H.H.J. Shri. Mahesh K. Jadhav NDPS Spl. Judge (C.R.No.43)
Date of Pronouncement of Judgment/Order.		22/05/2025
Judgment/order signed by P.O on		22/05/2025
Judgment/order uploaded on		22/05/2025