



Spl.(NDPS) Case No.05/2026
State of Maharashtra Vs.
Machindra Bhosale & Ors.
CNR No.MHRG150000482026

ORDER PASSED BELOW EXH.31

- 1) The present application has been filed by the **accused No.06 Ali Husain Fakarukhan Pathan**, u/s.483 of BNSS, 2023 for regular bail in the present case for offences punishable u/s. 8(c), 22(c), 25, 27(a), 29, 30, 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “NDPS Act”).
- 2) Prosecution alleges that, accused conspired together for undue financial gain, manufactured Ketamine Narcotic Drugs in Rohan Chemical Pvt. Ltd., situated at village Jite, Tal.Mahad, Dist.Raigad.
- 3) Ld. Advocate Mr. Prasad Sheth for accused no.06 submitted that, the accused is in jail since last nine months. The name of this accused was not in the FIR and subsequently he was added as accused in the offence. Further submitted that, prosecution has not complied with mandatory provision of section 42 and 52 of NDPS Act. Thereby, violated mandatory provisions of law which entails released of accused on bail. In addition submitted that, chemical analyzer report in respect of alleged seized muddemal is negative. Hence, accused has not committed any offence under NDPS Act. Thus, twin conditions prescribed under section 37 of NDPS Act is not applicable. As

per prosecution only formula used for making contraband has been found in the mobile of the accused, but it does not attract any offence under NDPS Act. This accused has been released on bail in the case pending against him in the Rajasthan State. Other accused with same role has been released on bail by this Court. Hence, ground of parity is applicable to this accused. Further, submitted that accused is ready to abide conditions of bail. Hence, prayed for grant of bail. In support of its contention the Ld. Advocate for accused relied on;

(i) Lakhbir Singhu @ Lakkha Vs. State NCT of Delhi, Bail Appl. No.4740/2025, wherein the Hon'ble Delhi High Court released accused on bail on ground of negative FSL report in respect of alleged seized article i.e. opium.

(ii) Shreekant S/o. Laxmi Narayan Vs. State of Rajasthan, Cri. Rev. Peti. No.1387/2023, wherein framing of charges has been quashed by the Hon'ble Rajasthan High Court to the extent of section 8/22, 8/25 of NDPS Act, on ground of negative FSL report.

(iii) Nipresh Das Vs. The State of Assam, Bail Appl. No.2232/2021, where the Hon'ble Assam High Court released accused on bail on the ground of negative FSL report for narcotic drugs & substances in respect of sample examined by it.

(iv) Bail order dt.09.02.2026 passed by the Hon'ble Rajasthan High Court at Jodhpur in **S.B. Cri. Misc. Bail Appl. Nos.11780 of 2025, 12290 of 2025 and 14856 of 2025**. Wherein, the Hon'ble Rajasthan High Court after finding negative report released accused Machindra Bhosale, Sushant Santosh Patil and Ganpatsingh S/o. Bhanvar Singh on bail in C.R. No.74/2025 registered at Police Station Sedwa, District Barmer, State Rajasthan, for offences punishable 8/21, 22, 25, 27(a), 29 & 30 of the NDPS Act after finding negative FSL report.

4) The Investigation Officer filed say through Ld. A.P.P. Shri. Tendulkar and strongly opposed bail application. It is submitted that, the offence is serious in nature, interim charge-sheet has been filed. The quantity seized from the possession of accused is huge and more than commercial quantity of Ketamine narcotic drugs. The accused has formed unit at Mahad and Rajasthan for manufacturing drugs. The formulas for manufacturing contraband has been found in the mobile of accused, which was tested through Forensic Laboratory and found to be used for manufacturing narcotic drugs. Accused has purchased raw materials for manufacturing contraband by using GST number of Mahadev Enterprises, Jaisalmer, Rajasthan. It was transpired that inter-state gang has been involved in the offence. Previously offences under NDPS Act has been registered against the accused. The accused if released on bail, they will again involve in manufacturing contraband. Further, accused will tamper with

prosecution witnesses and evidence. Hence, prayed for rejection of bail.

5) Heard both the sides, perused application, say filed prosecution and also the charge-sheet.

6) The C.A. report filed on record shows that it do not contain Ketamine drugs. The chemical found in it is also not narcotic drugs or psychotropic substances as defined under NDPS Act. Thus, prima facie the material on record shows that the article seized are not narcotic drugs, psychotropic substances or control substances.

7) It is true that while considering bail in cases involving commercial quantity under the NDPS Act, the Court is required to take into consideration limitation imposed u/s.37 of NDPS Act. However, in the present case the C.A. report does not support prosecution case. In absence of such material the application of stringent conditions as prescribed u/s.37 of NDPS Act becomes doubtful.

8) The investigation was completed and the charge-sheet has been filed. The accused is in judicial custody for a considerable period and trial would likely to take time for its conclusion. Hence, further incarceration of accused in absence of positive C.A. report would not served any purpose. The case laws cited by Ld. Advocate for accused squarely applicable to the case entitling released on bail on ground of negative FSL report.

9) This Court has released accused Nos.1, 2, 3, 4 & 9 on bail by order dt.16.03.2026. The role attributed to this accused is similar with the role of accused Nos.1, 2, 3, 4 & 9. Thus, ground of parity is applicable.

10) Considering the circumstances, this Court is of view that accused have made out case for grant of bail. At this stage without expressing any opinion on merits, this Court is of opinion that accused deserves to be enlarged on bail on suitable conditions. Hence, I proceed to pass following order.

:: ORDER ::

- 1) The application(Exh.31) is allowed.
- 2) Accused **No.06 Ali Husain Fakarukhan Pathan** be released on bail in the present case on execution of personal bond of Rs.50,000/-(Rupees Fifty Thousand Only) with two sureties each of Rs.25,000/-(Rupees Twenty Five Thousand Only).
- 3) The accused shall regularly attend the Court on all the dates unless exempted and shall co-operate in conclusion of the trial.
- 4) The accused shall not tamper with prosecution evidence and witnesses.

- 5) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade said person from disclosing facts to the Court or any police officer.
- 6) The accused shall furnish his contact number, residential address to the Court and shall keep updated in case there is any change.
- 7) The accused shall not leave Country without prior permission of this Court.
- 8) Breach of any condition entail cancellation of bail.
- 9) Send soft copy of the bail order by e-mail to the prisoner/accused through the Jail Superintendent on the same day or next working day.
- 10) The Jail Superintendent directed to enter the date of grant of bail in the e-prison software immediately upon receipt.

Sd/-

Mangaon.

(M. K. Patil)

Date: 07.04.2026.

Addl. Session Judge, Mangaon.