



Spl.(NDPS) Case No.30/2024
State of Maharashtra Vs.
Sufiyan A. Mannan Khan & Ors.
CNR No.MHRG150003402024

ORDER PASSED BELOW EXH.17

- 1) The present application has been filed by the **accused No.1 Sufiyan Abdul Mannan Khan**, u/s.483 of BNSS, 2023 for regular bail in the present case for offences punishable u/s. 8(c), 20(b)(ii)(c), 29 of NDPS Act, 1985.
- 2) Prosecution alleges that, on information received by Police, trap was arranged and accused was apprehended while carrying Narcotic Substance i.e. Charas which was above commercial quantity. Further, by following due procedure search and seizure panchanama was carried out. The investigation has been completed and charge-sheet has been filed.
- 3) Ld. Advocate Shri. Vicky Sharma for accused would submit that, accused is in jail since last two years. The co-accused has already been released on bail. None of the mandatory procedure prescribed in NDPS Act were followed. The alleged narcotic substance which was allegedly found in possession of accused is not of commercial quantity. Hence, limitations prescribed u/s.37 of NDPS Act are not attracted. Accused is suffering from Asthama and previously undergone nasal surgery which was not successful, due to which accused has health issue. In support of his contention also filed medical papers of accused. Further submitted that, accused is ready to abide conditions imposed by this Court. Hence, prayed for grant of bail. In support his contention he relied on judgment of the Hon'ble Bombay High Court in the case of **Vikas Babbarsing Itkan Vs. The**

State of Maharashtra, Bail Application No.125 of 2023, date October 16, 2023, wherein accused found in possession one kg Charas was released on bail.

4) Ld. A.P.P. Shri. Tendulkar filed say(Exh.22) & Investigation Officer filed say(Exh.23) and strongly opposed bail application. Ld. A.P.P. submitted that, accused was found in conscious possession of commercial quantity of narcotic substance. Hence, limitation prescribed u/s.37 of NDPS Act is applicable. Accused has not produced any medical evidence showing he is not fit. The ground of parity is not applicable to the present accused, because nothing was seized from possession of co-accused. Due procedure prescribe under NDPS Act has been duly followed. Accused has not satisfied twin conditions prescribed u/s.37 of NDPS Act. Hence, he is not entitle for bail. Present offence is serious in nature punishable with sever punishment. Thus, prayed for rejection of bail application.

5) Heard both sides, perused application alongwith medical papers, say filed prosecution and charge-sheet.

6) The quantity seized from conscious possession of accused is more two kilogram which is commercial quantity as per NDPS Act. Hence, twin conditions prescribed u/s. 37 of the NDPS Act is attracted. Thus, the Court must be satisfied that there are reasonable grounds for believing that accused is not guilty of such offence, and that he is not likely to commit any offence while on bail. From material available on record, such satisfaction cannot be recorded at this stage. The ground of parity is not applicable as co-accused was released on bail because no narcotic substance was found in his possession. The role attributed to this accused is different. Here

accused was arrested after recovery of commercial quantity charas from his conscious possession. Thus, recovery from accused is direct.

7) As regards medical condition of accused is concerned, report filed by Superintendent of Taloja Jail on 23.02.2026 alongwith prisoner Medical report dt.23.02.2026 of Chief Medical Officer. From which it appears that accused was referred to Sir. J.J. Group of Hospital, Mumbai for treatment and now he is clinically stable. Further, he will be refer if needed.

8) The judgment(supra) cited by accused is not helpful as quantity of charas in that case is one kg which is intermediate quantity, hence limitations prescribed u/s. 37 of NDPS Act were not attracted, which is not case here.

9) Considering nature and gravity of offence, commercial quantity of narcotic substance was seized, and statutory restrictions contained in section 37 of the NDPS Act, this Court is not inclined to exercise discretion in favour of accused. Hence, I proceed to pass following order.

:: ORDER ::

The bail application(Exh.17) is rejected.

Mangaon.

Date: 12.03.2026.

Sd/-

(M. K. Patil)

Addl. Session Judge, Mangaon.