

MHCC020019732026



IN THE SPECIAL COURT FOR NARCOTIC DRUGS AND
PSYCHOTROPIC SUBSTANCES ACT, 1985, AT GREATER
BOMBAY

ORDER BELOW EXH.3
(BAIL APPLICATION)

IN

SPECIAL CASE N.D.P.S. NO.200 OF 2026

Krishnakumar Indranarayan Dubey

Aged - 24 years,

R/o.: Gajdhar Bandh, Peter Lane, Near
Nagori Tea Lane, S.B. Patil Road,
Santacruz (West), Mumbai

...Applicant / Accused

V/s.

The State of Maharashtra

(At the instance of DCB CID, Unit-IX,
Bandra, vide CR No.101/2025)

...Prosecution/
Respondent

Appearance :-

Ld. Adv. Mr. Amrish Salunke for Applicant/Accused.

Ld. APP Sulabha Joshi for State/Respondent.

CORAM : HH THE SPECIAL JUDGE
(N.D.P.S.) & ADDITIONAL
SESSIONS JUDGE, ARVIND
MANOHAR BHANDARWAR
(COURT ROOM NO.42)

DATE : 06/08/2026

ORDER

The Applicant/accused namely **Krishnakumar Indranarayan**

Dubey has filed present application under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) seeking regular bail in Crime No.101/2025 registered with DCB CID, Unit IX, Bandra, Mumbai for the offences punishable under Sections 22(c), 29 r/w Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as the N.D.P.S. Act).

Prosecution Case Narrated by the Applicant/Accused :-

2. It is the case of the prosecution that on 12/08/2025, as per the instructions of the superior officer, the first informant and other police officers were on patrolling duty within the jurisdiction of Unit-IX. On 13/08/2025, at about 04:15 hours, they noticed a person moving under suspicious circumstances. The police accosted him and inquired about the contents of the yellow-coloured polythene bag in his possession. As he refused to disclose its contents, the police called two panch witnesses. Thereafter, by following the due procedure prescribed under law, the search of the suspect and the yellow-coloured polythene bag in his possession was conducted. In the meantime, the suspect disclosed his name as Krishnakumar Indranarayan Dubey, i.e., the present applicant/accused. During the search, the police recovered and seized 71 grams of MD from the polythene bag in the possession of the accused. Thereafter, the crime was registered and the accused came to be arrested.

Grounds for Bail:

3. The accused has filed the present application on the ground that the alleged recovery is planted. It is further contended that the police have not complied with the mandatory provisions of Section 50 of the NDPS Act. Hence, it is prayed that the application be allowed.

Prosecution's Say:

4. The prosecution has strongly opposed the application and contended that a commercial quantity of contraband, i.e., 71 grams of MD, has been recovered from the possession of the applicant/accused. It is further submitted that the contraband was recovered from the polythene bag carried by the accused and not during his personal search. Therefore, compliance with the provisions of Section 50 of the NDPS Act was not required. It is also submitted that the investigation is still in progress and the wanted accused is yet to be arrested. If the applicant/accused is released on bail, he is likely to repeat similar offences, abscond, and may not remain present to face the trial. Hence, it is prayed that the application be rejected.

5. Having gone through the application following points are framed for consideration and answered the same for the reasons to follow :-

Sr. No.	POINTS FOR DETERMINATION	FINDINGS
1.	Whether accused Krishnakumar Indranarayan Dubey is entitled to bail ?	No
2.	What order ?	Application stands rejected as per final order

As to Point Nos. 1 and 2 :-

6. It is submitted that there is non-compliance with the provisions of Section 50 of the NDPS Act. It is contended that no notice under Section 50 of the Act was served upon the applicant. Therefore, there is a violation of the mandatory provisions of Section 50 of the NDPS Act. Hence, it is prayed that the applicant be released on bail.

7. In support of his contentions, the learned Advocate for the applicant/accused has relied upon the following judgments of the Hon'ble Bombay High Court:

1. **Arif Khan Vs. State of Maharashtra** (Bail Application No. 4233 of 2025, decided on 06/03/2026);
2. **Nafis Rafi Ahmed Shaikh Vs. The State of Maharashtra** (Criminal Bail Application No. 173 of 2018, decided on 04/07/2018);
3. **Junaid Akhtar Qureshi Vs. The State of Maharashtra** (Bail Application No. 1645 of 2017, decided on 13/02/2018);
4. **Afaque Asif Sayyed Vs. State of Maharashtra** (Bail Application No. 1145 of 2015, decided on 22/12/2015); and
5. **Sholadoye Samuel Joy Vs. The State of Maharashtra** (Criminal Bail Application No. 2295 of 2021, decided on 20/01/2022).

8. The State has strongly opposed the application, contending that nothing was recovered during the personal search of the accused. Therefore, even assuming that there was non-compliance, as alleged by the applicant, the same would not affect the prosecution case. It is submitted that the recovery was a chance recovery and that the contraband was recovered from the bag carried by the accused. The quantity of the contraband recovered is of commercial quantity. Therefore, the rigours of Section 37 of the NDPS Act are attracted. Hence, it is submitted that the applicant is not entitled to be released on bail.

9. The authorities relied upon by the applicant lay down that, in the written notice issued under Section 50 of the NDPS Act, the accused was not properly apprised of his legal right to be searched before a Magistrate or a Gazetted Officer. It has been held therein that a joint

communication of the rights available under Section 50(1) of the Act frustrates the very purpose of the said provision. It has further been observed that merely informing the accused that the raiding party includes a Gazetted Officer and asking whether he wishes to be searched before another Gazetted Officer or a Magistrate amounts to non-compliance with Section 50(1) of the NDPS Act.

10. In the present case, however, the prosecution story, as reflected in the FIR, reveals that it was the bag carried by the accused that was searched and not the person of the accused. Section 50 of the NDPS Act prescribes the procedure to be followed when the personal search of a person is to be conducted. Therefore, only when the search of the person of the accused is undertaken are the mandatory requirements of Section 50 required to be complied with.

11. At this stage, it is necessary to refer to the judgment of the Hon'ble Supreme Court in **Than Kunwar v. State of Haryana**, (2020)5 SCC 260, wherein the contraband was recovered from a bag carried by the accused. The Hon'ble Supreme Court observed that where the personal search of the accused is not conducted, the question of issuing a notice under Section 50 of the Act and informing the accused of his right to be searched before a Gazetted Officer or a Magistrate does not arise.

12. In the present case also, the contraband was not recovered during the personal search of the applicant/accused but from the bag carried by him. Therefore, the authorities relied upon by the applicant are not applicable to the facts of the present case.

13. Considering the fact that the contraband was recovered from the bag carried by the applicant/accused, that the quantity recovered is of

commercial quantity, and that the twin conditions prescribed under Section 37 of the NDPS Act are attracted, this Court is of the opinion that the applicant is not entitled to be released on bail. In the result, I answer Point No. 1 in the negative and pass the following order:

ORDER

1. Bail Application (Exh.3) moved by the applicant/accused **Krishnakumar Indranarayan Dubey** in Special Case N.D.P.S. No.200/2026 stands rejected and disposed of accordingly.
2. The order is digitally signed; hence, it can be uploaded on Case Information System (CIS) and the printout of the digitally signed order, additionally signed by me, be kept on record as the physical record is maintained by the Court.

Date : 06/08/2026

(Arvind M. Bhandarwar)
Special Judge (N.D.P.S.) and
Additional Sessions Judge,
Court Room No.42
City Civil & Sessions Court,
Greater Mumbai.

Date of Signature : **06/08/2026**

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
06/08/2026	06:20 p.m.	Kishor P. Sherwade (Stenographer Grade-I)
Name of the Judge		H.H.J. ARVIND MANOHAR BHANDARWAR (COURT ROOM NO.42)
Date of Pronouncement of Judgment/Order.		06/08/2026
Judgment/order signed by P.O on		06/08/2026
Judgment/order uploaded on		06/08/2026