IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. OF 2026

(@ SPECIAL LEAVE PETITION (CRIMINAL) No.17220/2026)

GOPICHAND RAMLAL BISHNOI ..... APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA ..... RESPONDENT(S)

O R D E R

1. Leave granted.

2. We have heard learned counsel for the parties.

3. Appellant is aggrieved by order dated 17.04.2026, passed by the High Court of Judicature at Bombay (briefly the 'High Court' hereinafter) rejecting the regular bail application of the appellant.

Signature Not Verified
Digitally signed by IRAMNAZ
Date: 2026.04.20 15:09:59 IST
Reason:

4. Appellant is an accused in Crime No.445 of 2023, registered at Vimantal Police Station, Pune, under

Section 8(c) read with Sections 21(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (briefly the 'NDPS Act' hereinafter).

5. According to the prosecution, on 24.08.2023, appellant was apprehended by the police and from his possession 53.86 grams of mephedrone and 312.60 grams of heroin were recovered.

6. Appellant was arrested on 24.08.2023 and has been in custody since then.

7. Learned counsel for the appellant submits that appellant has no criminal antecedents. He is languishing in jail for almost 3 years, 3 months now. Though investigation is complete, trial has not yet commenced. Therefore, further detention of the appellant would not be just and proper.

8. Learned State counsel for the respondent-State of Maharashtra has referred to the averments made in the counter affidavit filed on behalf of the State and submits that the contraband recovered from the appellant is more than the commercial quantity. Therefore, the rigour of Section 37 of the NDPS Act would kick in. Unless the appellant can overcome the barrier of Section 37 of the NDPS Act, bail may not be granted by the Court.

9. Submissions made by learned counsel for the parties have received the due consideration of the Court.

10. From the materials on record, it is seen that appellant is in custody since 24.08.2023, for more than 3 years now. The investigation was concluded on 17.02.2024 whereafter charge sheet was submitted before the Special Court. Prosecution seeks to rely upon the 21 witnesses to prove its case. It is on record that charges were framed only on 12.02.2026 i.e., after almost 2 years since submission of the charge sheet. Though, more than 9 months have gone by since framing of charges, the trial has not yet commenced.

11. We further find that on an earlier occasion when the appellant had approached the High Court for bail, being Bail Application No.3537 of 2024, the same was disposed of by the High Court on withdrawal with liberty to file fresh application after 9 months if the trial was not concluded by that time.

12. In the impugned order, the High Court has observed that mere lack of progress in the trial cannot be a ground to consider the bail application in view of statutory restrictions.

13. In so far the present case is concerned, not to speak of lack of progress in the trial, the trial itself

has not commenced after framing of charges 9 months ago on 12.02.2026.

14. On a query by the Court, learned counsel for the appellant submits that the delay in framing of charges and subsequent delay in the commencement of the trial post framing of charges cannot be attributed to the appellant as the appellant is in custody.

15. While certainly the statutory restrictions under Section 37 of the NDPS Act would have to be borne in mind while considering a plea for bail of a person accused of committing offences under the NDPS Act involving commercial quantity but when a Constitutional Court is confronted with a situation where trial has not at all commenced and the appellant continues to remain in jail as an under-trial for sufficiently long period of time, then having regard to the over-arching constitutional mandate of Article 21 of the Constitution of India, a balance would have to be struck. However, no specific time frame can be fixed as to when delay in commencement of the trial while the accused continues to languish in jail as an undertrial can be said to infringe the fundamental right of the accused under Article 21. It all depends upon the facts and circumstances of the case. However, one thing is clear. When there is breach of Article 21 of the Constitution of India, Section 37 of the NDPS Act would have to give

way.

16. In the present case, it has been more than 2 and a half years since conclusion of investigation; 9 months since charges have been framed with 21 witnesses to be examined and the trial has not yet commenced while the appellant remains in jail as an undertrial for more than 3 years.

17. In the circumstances, we are of the considered opinion that further detention of the appellant notwithstanding the statutory embargo under Section 37 of the NDPS Act would be constitutionally impermissible.

18. Accordingly, we set aside the impugned order passed by the High Court dated 17.04.2026 and direct that the appellant shall be produced before the jurisdictional Special Court within a maximum period of 7 days from today whereafter he shall be released on bail on such terms and conditions as may be deemed appropriate.

19. We further direct that appellant shall appear before the Trial Court on all the dates as may be fixed by the Trial Court except on such occasions when his appearance may be exempted by the Court.

20. Appeal is accordingly allowed.

21. Pending application(s), if any, shall stand disposed of.

.....J.

(UJJAL BHUYAN)

.....J.

(ATUL S. CHANDURKAR)

NEW DELHI;
November 19th, 2026.
IZ

ITEM NO.5 COURT NO.13 SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 17220/2026

[Arising out of impugned final judgment and order dated 17-04-2026 in CRLBA No. 3904/2025 passed by the High Court of Judicature at Bombay]

GOPICHAND RAMLAL BISHNOI Petitioner(s)

VERSUS

STATE OF MAHARASHTRA Respondent(s)

IA No. 262028/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 262029/2026 - EXEMPTION FROM FILING O.T.

Date : 19-11-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE UJJAL BHUYAN
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Petitioner(s) : Mr. Narendra Kumar Goyal, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. K H Dahiya, Adv.
Mr. Manish Ranvah, Adv.
Mr. Saroj Kumar Sinha, Adv.
Mr. Chirayu Sharma, Adv.
Ms. Kajal Rani, Adv.
Ms. Komal Singh, Adv.
Mr. Ankush Kumar, Adv.
Mr. Rahul Saini, Adv.
Mr. Divyanshu Saraswat, Adv.
Mr. Savyasachi Dubey, Adv.
M/S. Mukesh Kumar Singh And Co.- 2589, AOR

For Respondent(s) : Mr. Raman Yadav, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande- 3259, AOR
Mr. Shrirang B. Varma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.

2. Appeal is allowed in terms of the signed order.

3. Pending application(s), if any, shall stand disposed of.

(IRAMNAZ) **(CHETNA BALOONI)**
COURT MASTER (SH) **COURT MASTER (NSH)**

(Signed order is placed on the file)