

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 469 OF 2016**

Nandkumar Mohan Bhilare

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vaibhav R. Gaikwad for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

PSI Mr. R. S. Garje from LCB, Satara, is present

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 7th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 215 of 2015 registered with the Satara Taluka Police Station, Satara, for the alleged offences punishable under Sections

8(B) and 20 of the Narcotics Drugs and Psychotropic Substances Act ('NDPS').

3. The complainant - Vikash Jadhav, Assistant Police Inspector has alleged that on 28th November, 2015, when he was on his patrolling duty, he saw one person carrying a plastic bag standing near their motorcycle. He has alleged that when the said person saw the police, he attempted to run away, however, was stopped and questioned by the police. When questioned about the contents in the plastic bag, he allegedly disclosed that the same was charas. Accordingly, the aforesaid offence came to be lodged as against the applicant.

4. Learned Counsel for the applicant submits that the quantity which was seized was 450 grams of charas, which was not a commercial quantity and hence, the applicant be enlarged on bail. He relied on the judgments of this Court in the case of *Uttam s/o Dhaniram Barman vs. State of Maharashtra*¹ and *Rajendra Ramchandra Jadhav vs. The State of Maharashtra*². He submitted that the applicant has no criminal

1 2006 All MR (Cri) 794

2 Cri. Bail Application No. 356/2014 decided on 10/4/2014

antecedents. He submitted that the investigation is complete and charge-sheet is filed. Hence, the applicant be enlarged on bail.

5. Learned A.P.P opposed the bail application. He submitted on instructions of the Investigating Officer, who is present in Court, that the charge is framed and the trial is likely to commence. The learned Counsel for the applicant disputes the fact that charge is framed in the said case.

6. Perused the papers. The quantity seized is not a commercial quantity. No doubt, the applicant was caught red handed, however, considering the fact that investigation is complete and charge-sheet is filed and the fact that there are no antecedents *qua* the applicant, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on every Saturday from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

(iii) The applicant shall attend the Court on every date of hearing and cooperate with the conduct of the trial;

(iv) The applicant shall inform his latest place of residence and mobile contact number within two weeks of his release, and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant shall file an undertaking with regard to clauses (ii) to (iv) in the Trial Court within one week of his release;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.