



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.185 OF 2023

CLARA BAUND UDANSHIWE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Taraq Sayed a/w Ms. Ashwini Achari and Ms. Bhumika Gada and Ms. Aalisha Parikh, for the applicant.

Ms. Rutuja Ambekar, APP for the State.

API- Mr. Sachind Gawde, DCB CID Unit 6, Mumbai present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 7, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under sections 8(c) read with 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS' Act, for short) registered vide C.R. No.36 of 2021 with D.C.B, C.I.D. Unit 6 Police Station. The incident is dated 25/10/2021. The FIR was registered on 25/10/2021. The applicant is arrested on 25/10/2021. The applicant is the accused no.6. In all there 7 accused.

3. A car in which the applicant was travelling along with 4 others, was intercepted by the respondent. In the cavity of door and dickey of the car, 16 kg contraband 'charas' was found concealed. 8 kg 'charas' was recovered on the personal search in the bag which belonged to the husband of the applicant. The applicant's husband was driving the car. The applicant was arrested on 25/10/2021. She is a woman. She is in custody for more than 1 year and 10 months with no possibility of trial concluding any time soon. No doubt, the applicant was travelling in the car. However, there is nothing on record to indicate that she had knowledge about the concealment of contraband. The entire family along with her granddaughter were in the vehicle. There are no criminal antecedents reported against the applicant.

4. So far as the applicant's husband who was driving the car i.e. accused no. 1 is concerned, I am informed that there are criminal antecedents of similar nature against him and in fact in one case, he had been convicted as he was found in possession of 39 kg 'charas'.

5. Prima facie, considering that there is nothing incriminating on record against the applicant to attribute knowledge to the applicant, I feel the rigours of section 37 of the NDPS Act can be got over. On the

ground that the applicant is a woman and is in custody for more than 1 year and 10 months, I am inclined to enlarge the applicant on bail. There are no criminal antecedents reported against the applicant, therefore, the possibility of the applicant committing similar offence appears to be remote. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Clara Baund Udanshiwe in connection with C.R. No.36 of 2021 registered with D.C.B, C.I.D. Unit 6 Police Station shall be released on bail on her furnishing PR. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the investigating officer of the concerned Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) The applicant 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 him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (f) On being released on bail, the applicant shall furnish her

contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

6. The application is disposed of.

(M. S. KARNIK, J.)