



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

BAIL APPLICATION NO.562/2023

RAKESH GORAKH NIMONKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Sana Raees Khan a/w. Adv. Aditya Parmar for the
applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 31, 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), 20(b), 20(c), 29 of the
Narcotic Drug and Psychotropic Substances Act, (hereafter
'NDPS Act' for short) registered on 30/4/2022 vide C.R.
No.90/2022 with Anti-Narcotics Cell, Azad Maindan Unit.

3. The applicant is the accused no.2. There are in all
three accused. The applicant was arrested on 30/4/2022 and
is in custody for more than 16 months with no possibility of

the trial concluding any time soon.

4. The applicant was found in possession of 5 kg of 'ganja' which is a non-commercial quantity. The rigours of Section 37 of the NDPS Act are not applicable. It is pointed out that the co-accused no.1 whose role is similar to that of the applicant in the commission of the offence has been released on bail by an order dated 22/8/2023 passed in Criminal Bail Application No. 558/2023. The order reads thus:-

"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), 20(B) and 29 of the of the Narcotic Drugs and Psychotropic Substances Act, 1985(hereafter 'NDPS Act' for short), registered vide First Information Report (FIR) No.90/2022 with Anti-Narcotics Cell, Azad Maidan Unit.

3. The applicant was arrested on 30/4/2022 in connection with the aforesaid offence. The applicant was found in possession of 5 kgs of 'Ganja' which is an intermediate quantity. The applicant was arrested on 30/4/2022 and now is in custody for more than one year and four months. The possibility of the trial commencing any time soon in the near future is remote.

4. Learned APP opposed the application.

5. I have perused the FIR, panchanama and the

relevant material placed on record. There are no criminal antecedents reported against the applicant. There is no material to indicate that the applicant is a flight risk.

6. Learned APP invited my attention to the order dated 19/1/2023 passed by the trial Court when the applicant was enlarged on temporary bail to attend the last rites of his father. Learned counsel for the applicant submits that the applicant has abided by the conditions and duly surrendered in terms of the order. There is nothing on record to indicate that the applicant has misused the liberty when he was on bail during this period.

7. Taking an overall view of the matter, the applicant can be enlarged on bail by imposing conditions. The investigation is complete. The charge-sheet has been filed. There are criminal antecedents reported against the applicant.”

5. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Rakesh Gorakh Nimonkar in connection with C.R. No.No.90/2022 with Anti-Narcotics Cell, Azad Maidan Unit, shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall report to the Officer of the Anti-Narcotics Cell, Azad Maidan Unit, twice a month on the first and third Monday of every month between 11.00 a.m. to 1.00 p.m.

(d) The applicant shall attend the trial regularly.

(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 his 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.)