



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

BAIL APPLICATION NO. 1413 OF 2023

SUDHA AVADHSHARAN TIWARI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Anil G. Lalla, for the Applicant.

Ms. Veera Shinde, APP for the State.

Mr. Shirish Bhosale, Khar police station present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 18, 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 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered on 22/05/2019 vide C.R. No. 98 of 2019 with Khar police station.
- 3.** The applicant had previously filed bail application in this Court which was decided on 30/11/2022. For convenience, the said order is reproduced which reads thus :

“1. Heard learned counsel for the applicant and learned APP
2. This is an application for bail in respect of an offence punishable under sections 8(c), 20 and 29 of the Narcotic

Drugs and Psychotropic Substances Act, 1985 (hereafter “NDPS Act”, for short). The applicant was allegedly found in possession of 2.518 kgs of Charas. The FIR is dated 22/05/2019. It is contended by learned counsel that the applicant is a lady and is in custody for more than 3½ years. While in custody the applicant delivered a child. Further, it is submitted that there is no compliance with Section 50 being the mandatory condition of NDPS Act. Learned counsel submitted that the trial will take a long time to conclude.

3. Learned APP pointed out that the trial has commenced and two witnesses are already been examined. The third witness is likely to be examined soon. Learned APP submitted that there only 5 to 6 witnesses are to be examined and the trial is proceeding.

4. My attention is invited to page 90 of the paper book where it is reflected that the applicant was asked whether she would like to be searched before the gazetted officer or the Magistrate. There is an endorsement on such a report by the applicant that she has no objection to be searched by the officers. Learned counsel for the applicant submits that she may not have understood the contents in the said report. It is not possible for me to consider the submissions at this stage as there is a report on record indicating that she was informed of her right to be searched before the gazetted officer or the Magistrate. However, considering that the trial has commenced and the witnesses have been examined, further that only 5 to 6 witnesses are being examined, this is a fit case where the trial Court can be requested to expedite the trial. The trial Court is requested to expedite the trial and conclude the same as far as possible within a period of three months from today.”

4. Learned APP submitted that P.W.5 is in the witness box and only 4 to 5 witnesses remain to be examined. According to learned APP this is the stage of the trial as on date. Learned APP submitted that the trial Court can be directed to expedite the trial and conduct the same on day to day basis.

5. Paragraph 3 of the order dated 30/11/2022 reveals that not much progress is made in the trial since the passing of the order on 30/11/2022. The trial Court was requested to expedite the trial and conclude the same as far as possible within 3 months from 30/11/2022. Undoubtedly, there is heavy workload which the trial Court has to deal with. The applicant is now incarcerated as an undertrial for almost more than 4 years and 5 months. The trial is still likely to take some more time to conclude. Further, the applicant, a woman has a child along with her in custody. I am inclined to enlarge the applicant on bail. No criminal antecedents are reported against the applicant. There is nothing on record to indicate that the trial is protracted at the instance of the present applicant. Learned APP submits that the applicant is from Uttar Pradesh and therefore there is likelihood of the applicant evading trial. In my opinion, the applicant can be enlarged on bail by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.

- (b) The applicant- Sudha Avadhsharan Tiwari in connection with C.R. No. 98 of 2019 registered with Khar police station shall be released on bail on her furnishing P.R. Bond of Rs.1,00,000/- with

one or more solvent sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 1,00,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the investigating officer of Khar police station once in a week on every 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.

(g) The applicant shall not leave the jurisdiction of Mumbai, Mumbai Suburban and Thane Districts without permission of the trial Court till the trial concludes.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicant before enlargement on bail, shall provide permanent address and contact number of her relatives where the applicant will reside after her enlargement on bail.

6. The application is disposed of.

(M. S. KARNIK, J.)