



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

BAIL APPLICATION NO. 3125 OF 2023

ANAND LAXMAN TARDE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Zehra Charania a/w Adv. Dilip Mishra a/w Adv. Ayaz Khan for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

API Gaikwad, ANC Bandra Unit.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 08, 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 Section 8(c) read with Sections 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), registered on 04/01/2021 vide C.R. No.04 of 2021 with Anti Narcotic Cell (ANC), Bandra Unit.
- 3.** Based on the information received, a raid was conducted on 04/01/2021. The tempo belongs to the

applicant. The tempo, the applicant along with other co-accused were searched which resulted in the recovery of 106 Kg of the contraband 'Ganja'. The samples were seized, packed and marked. The applicant along with other co-accused were found in possession of 12 packets each, weighing 2 Kg each, of 'Ganja'. 17 packets, weighing 2 Kg each, of 'Ganja' were found in the tempo.

4. Learned APP opposed the application and invited my attention to the affidavit in reply filed by Sushant Sopan Bandgar, Police Inspector attached to Ghatkopar Police Station, Mumbai. He further, more particularly, invited my attention to grounds 11(c) to 11(e) which is at page No. 215 of the paperbook. In the affidavit in reply, it is submitted that the applicant was found in the conscious possession of the contraband 'Ganja' and the quantity is commercial. Hence, the applicant should not be enlarged. It is submitted that there are adequate materials against the applicant.

5. I have perused the panchanama which is at page No. 42 of the paperbook. I have also perused the forensic

report which is at page No. 185 of the paperbook. The forensic analysis report reveals that though the exhibit Nos. 1, 2, 3 and 4 are 'Ganja', the description of the articles contains "Flowering/fruited tops, seeds, stalks in four stapled polythene bags packed separately in four packets" These packets were mixed and then sent for analysis.

6. *Prima facie*, I am of the opinion that the description of the articles do not conform with the definition of the 'Ganja' within the meaning of Section 2(iii)(b) of the NDPS Act. Even such a view has been taken in paragraph No.7 of the order of this Court passed in Bail Application No. 1203 of 2023 while releasing the concerned applicant on bail. Moreover, so far as the mixing of the contraband is concerned, learned counsel for the applicant relied upon the decision of this Court passed on 19/07/2023 in Parvez Haseen Khan Vs. The State of Maharashtra vide Bail Application No.3486 of 2021. It is also seen that the applicant is in custody for more than 3 years and 11 months with no possibility of trial concluding any time soon. Also, on ground of long incarceration coupled with what has been

observed hereinabove, in my opinion, though the application is opposed by the learned APP, the applicant can be enlarged on bail, as the twin conditions of Section 37 of the NDPS Act are satisfied in the present case. There are no criminal antecedents reported, hence it is unlikely that the applicant will commit any offence during the pendency of the trial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Anand Laxman Tarde in connection with C.R. No.04 of 2021 registered with ANC, Bandra 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 is permitted to furnish cash bail surety in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of ANC Bandra Unit once in a month every first Sunday 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 his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

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

(h) The applicant shall surrender his passport to the investigating officer. If the applicant does not have passport, an affidavit shall be filed before the trial Court to that effect.

7. The application is disposed of.

(M. S. KARNIK, J.)