

Sayali Upasani

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

BAIL APPLICATION NO. 1265 OF 2024

Mohan Bansilal Rathod

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Jitesh Jadhav with Uma Khsirsagar Wagle, for Applicant.

Mr. S. R. Agarkar, APP for State/Respondent.

Mr. Shekhar Ashok Pawar, PSI, and Mr. Santosh Gulchand
Dhawale, API, Juhu Police Station, Present.

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CORAM:- N. J. JAMADAR, J.

DATED:- 3rd APRIL, 2024

PC:-

- 1) Heard the learned Counsel for the applicant and the learned APP for the State.
- 2) The applicant, who is arraigned in Special Case No. 39 of 2022 arising out of CR No. 33 of 2021, registered with Juhu Police Station, for the offences punishable under Sections 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act, 1985), has preferred this application to enlarge him on bail.

3) At the outset, the learned Counsel for the applicant invites the attention of the Court to an order dated 3rd August, 2023 in BA No. 977 of 2022, whereby Maruti Ganpat Janbandhu, the co-accused was allegedly found in possession of 22 kg. Ganja along with the applicant, who was allegedly found in possession of 35.700 grams of Ganja, was released on bail.

4) The learned Counsel for the applicant submitted that the applicant is similarly circumstanced and is, therefore, entitled to the same dispensation. While releasing the co-accused – Maruti on bail, this Court had noted that there was a complete non-compliance of the provisions contained in Section 52A of the NDPS Act, 1985 and the accused has been in custody since 17th July, 2021. Thus, on account of non-compliance of the mandatory provisions contained in Section 52A of the NDPS Act, 1985 and the prolonged period of incarceration, this Court was persuaded to release the co-accused on bail.

5) The reasons which weighed with this Court in releasing the co-accused apply with equal force to the claim of the applicant for bail. The learned APP fairly submits that the principle of parity applies.

6) I am, therefore, inclined to exercise discretion in favour of the applicant.

7) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Mohan Bansilal Rathod who is facing trial in NDPS Special Case No.39/2022 pending on the file of learned Special Judge (NDPS), Greater Bombay arising out of C.R.No.33/2021 registered with Juhu Police Station, Mumbai, is ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;

(iii) The Applicant shall report to Juhu Police Station, Mumbai on the 1st Monday of every alternate month between 11.00 a.m. to 02.00 p.m. till framing of the charge.

(iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner.

(v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall not be influenced by any of the observations made hereinabove.

The application stands disposed.

[N. J. JAMADAR, J.]