

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3302 OF 2024

Kalu Krushna Shirsath	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Ms. Anima Mishra a/w. Mr. Anuj Singh, Advocates, for the Applicant.
 Mr. C. D. Mali, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 27th NOVEMBER 2024

PC:-

1. Heard Ms. Anima Mishra, learned Counsel appearing for the Applicant and Mr. Mali, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* by the Applicant i.e. Accused No.2. The relevant details are as follows:-

1.	C. R. No.	341 of 2022
2.	Date of registration of F.I.R.	15/06/2022
3.	Name of Police Station	Malegaon Taluka Police Station, District-Nashik
4.	Section/s invoked in F.I.R.	22(c), 20, 29 and 25 of the NDPS Act, 1985

5.	Section/s invoked in Charge-sheet	8(a), 20(a), 22(a), 25 and 29 of the NDPS Act, 1985
6.	Date of incident	14/06/2022
7.	Date of arrest	15/06/2022
8.	Date of filing of Charge-sheet	21/10/2022

3. As per the prosecution case, the Police officials received information on 14th June 2022. The police officials went to the room situated in agricultural field owned by Gurunanak Bhagwan Temple Trust, Tokde for searching the Accused persons of another C.R. No.63 of 2022 registered under Section 307 read with 34 of the Indian Penal Code, 1860. At that time, Accused Nos.1 and 2 were found sitting near the room. In the said room, police found 17 plastic gunny bags containing Ganja. The quantity of said Ganja was 480 kgs 910 grams. The said room belong to the said Trust and Accused No.1 is a trustee of the said Trust. The Accused Nos. 1 and 2 informed the police officials that said Ganja belonged to the Accused No.3 and that it was given to them for storing in the said room. As per the prosecution case, the said Ganja was to be given to Accused No.4 who is the absconding Accused. There are about 9 phone calls between the present Applicant i.e. Accused No.2 and Accused No.4 from 1st June 2022 to 14th June 2022.

4. Ms. Anima Mishra, learned Counsel appearing for the Applicant submitted that as per the prosecution case, there are only two circumstances against the present Applicant. The first is that the Accused Nos.1 and 2 were found sitting near the room. In the said room, police found 17 plastic gunny bags containing Ganja and that there were 9 phone calls between the present Applicant and the Accused No.4. She submitted that however, even as per the prosecution case the said room in which Ganja was found stored in 17 plastic gunny bags was belonging to Gurunanak Bhagwan Temple Trust, Tokde and Accused No.1 is the trustee of the said trust. She submitted that even as per the prosecution case, the said Ganja belongs to Accused No.3.

5. She submitted that other circumstance against the Applicant is the CDR which shows that there were 9 phone calls between the present Applicant and the Accused No.4. However she submitted that there is no role attributed to the Accused No.4. She submitted that in any case, the Applicant is arrested on 15th June 2022, charge-sheet is filed on 21st October 2022 and till date there is no progress in the trial and even the charge is also not framed.

6. On the other hand, it is the submission of Mr. Mali, learned APP appearing for the Respondent-State that the present Applicant was found near the room in which the said Ganja was stored. The Applicant informed the Investigating Officer that Ganja belongs to the Accused No.3 and it has been given in their custody. There are 9 phone calls between the present Applicant and absconding Accused No.4 and as there is incriminating material against the Applicant, he prays that the Bail Application be rejected.

7. *Prima facie*, there is substance in the contention of learned Counsel appearing for the Applicant that there are only two circumstances against the present Applicant. First is that the Applicant was found sitting near the room where Ganja was found stored in 17 plastic gunny bags. However, admittedly, the said room was not belonging to the Applicant. The said room was belonging to one Gurunanak Bhagwan Temple Trust, Tokde and there is no material on record to show that the present Applicant i.e. Accused No.2 in any case was concerned with the said trust. The other circumstance against the Applicant is that there are 9 phone calls between the Applicant and the Accused No.4. However, although the said Accused No.4 is absconding, there is no role

attributed by the prosecution to Accused No.4. Therefore, *prima facie* it cannot be said that there are reasonable ground for believing that the Applicant is guilty of offence alleged against him. The Applicant has no criminal antecedents. Thus, twin conditions as contained in Section 37 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 are not fulfilled.

8. Perusal of the record shows that in the present case, the incident in question occurred on 14th June 2022, F.I.R. was lodged on 15th June 2022, the Applicant was arrested on 15th June 2022 and, Charge-sheet was filed on 21st October 2022. There is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 25 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

9. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure

speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail. If the Applicant's detention is continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial.

10. There are no criminal antecedents against the present Applicant.

11. Thus, case is made out for grant of bail. However, as most of the witnesses are from District Nashik. Ms. Anima Mishra, learned Counsel appearing for the Applicant states that the Applicant will not reside within District - Nashik and that the Applicant will reside at Ramjan Baba Nagar, Opp. Natraj Talkies, Dist. Dhule.

12. The Applicant does not appear to be at risk of flight.

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

14. In view thereof, the following order:-

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

ORDER

- (a) The Applicant – Kalu Krushna Shirsath be released on bail in connection with C.R. No.341 of 2022 registered with the Malegaon Taluka Police Station, Taluka - Malegaon, District - Nashik on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Nashik district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Azad Nagar Police Station, District - Dhule once every week, on every

Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Azad Nagar Police Station, District - Dhule to communicate details thereof to the Investigating Officer.

- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

15. The Bail Application is disposed of accordingly.

16. It is clarified that the Trial Court shall decide the case on its merits and uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]