



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1015 OF 2025
IN
CRIMINAL APPEAL NO. 178 OF 2025

1. Mrs. Sarlabai Sanjay More,
Age : 42 years, Occupation : NA,
(Presently in Judicial Custody at Harsul Jail)
Residing at Flat No. Varad Nagar,
Kharpudi, Jalna, Maharashtra-431203.
2. Mr. Nilesh Sanjay More,
Age : 22 years, Occupation – Private,
(Presently in Judicial Custody at Harsul Jail)
Residing at Flat No. Varad Nagar,
Kharpudi, Jalna, Maharashtra-431203. ... Applicants

Versus

The State of Maharashtra
(Through Jalna Police Station,
Jalna). ... Respondent

.....
Mr. Amil Katarnaware, Advocate h/f Ms. Pooja A. Dongre, Advocate
for the Applicants.

Mr. P. K. Lakhotiya, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 21.04.2025

Pronounced on : 22.04.2025

ORDER :

1. This is an application for suspension of sentence and grant of
bail on account of conviction recorded by learned Special Judge

(NDPS) and Additional Sessions Judge-3, Jalna in Special Case No. 02 of 2020 dated 17.02.2025.

2. It is submitted that applicants were arrested, chargesheeted and tried vide above Special Case for commission of offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). It is further submitted that after appreciation of evidence of five witnesses, learned trial Judge has accepted the case of prosecution and has held the applicants guilty of offence under Section 20(B) of the NDPS Act by judgment and order dated 17.02.2025. It is further submitted that there is improper appreciation of evidence as well as law. That, mandatory provisions and procedure contemplated under law are not adhered to and therefore, according to learned counsel, there is every chance of succeeding in the appeal, which is filed against the judgment and order of conviction. That, conviction being dated 17.02.2025 and appeal being of the year 2025, much more time would be required to hear and decide the appeal. That, sentence awarded is of imprisonment for five years. There are no criminal antecedents. Applicants were on bail during trial and fine amount is already paid. For all above reasons, learned counsel urges for grant of relief as prayed.

3. Learned APP opposed on the ground that, on full fledged trial, conviction has been recorded. That applicants were in possession of ganja which was to be sold. However learned APP pointed out that quantity, though was not commercial, it was not small quantity. According to him, conviction is recorded on complete appreciation and he also apprehends misuse of liberty.

4. Heard. Perused the papers. Applicants were tried vide Special Case No. 02 of 2020 by learned Special Judge (NDPS) and Additional Sessions Judge-3, Jalna. Case of prosecution, comprising of five witnesses as well as documentary evidence, has been appreciated and by judgment and order dated 17.02.2025, charge are held to be proved and sentence of imprisonment for five years is awarded.

5. Now exception has been taken to the same by filing appeal, which is apparently of the year 2025. On Court query, it is informed that there are no criminal antecedents and present crime is the only one for which conviction is recorded. Appeal being of the year 2025, would take sufficiently long time to be heard and decided. Taking the above facts and circumstances into consideration, when there are no criminal antecedents, prayers so raised deserve to be granted. Hence, I proceed to pass the following order :

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicants Sarlabai Sanjay More and Nilesh Sanjay More in Special Case No. 02 of 2020 by learned Special Judge (NDPS) and Additional Sessions Judge-3, Jalna on 17.02.2025, stands suspended till the final hearing and disposal of Criminal Appeal No. 178 of 2025.
- III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each, with one solvent surety by each in the like amount, subject to following conditions :
- IV. The applicants shall not commit any criminal activity.
- V. The applicants shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date they tender bail papers and thereafter, the trial Judge to fix dates for their subsequent appearances.
- VI. In case of two consecutive defaults on the part of the applicants to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicants.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]