



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

115 BAIL APPLICATION NO.206 OF 2025

KUMARSWAMI KOMMALU CHAKKA

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr.S.S.Gangakhedkar

APP for Respondent-State : Mr.P.P.Dawalkar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 30.06.2025

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he is arrested on 27.09.2023 in connection with Crime No.0158/2022, registered with Omerga Police Station, Dist. Osmanabad, for the offence punishable under Sections 20, 8 (c), 20 (B) (ii) (C), 29 (b) of the NDPS Act and Section 279 of the IPC.

3] The vehicle i.e. pickup bearing No. TS-25-T-3921 was loaded with vegetables and ganja and the said vehicle met with an accident on 02.04.2022 and the driver of the said vehicle ran away from the spot. On investigation, it was found that the original owner of the vehicle, namely, Daravattu had transferred the said Pickup vehicle in favour

of Santosh Chainnamallu Shingaraboina by means of notarized document. On further investigation, it was found that Santosh Shingaraboina has also sold the said vehicle to the present applicant by means of a notarized document. It is further stated that the said vehicle was in possession of the applicant and his nephew, namely, Chandu was driver of the said vehicle. Considering the ownership of the vehicle, the applicant is arrested from the Cherapalli Prison on 27th September, 2023.

4] The learned counsel for the applicant submits that except aforesaid notary documents, there is absolutely no evidence against the present applicant, first to indicate the ownership of the vehicle and second that the applicant was having knowledge of the vehicle being used for the purpose of transportation of narcotics. The learned counsel for the applicant relies upon the judgment of the Hon'ble Supreme Court in the case of **Harbhajan Singh Vs. State of Haryana** reported in **2023 SCC OnLine SC 490** particularly para nos.11 and 12, so also, the judgment of the Rajasthan High Court in the case of **Budharam Vs. State of Rajasthan** reported in **2024 SCC OnLine Raj 3226**, particularly para nos.18, 20 and 21, to contend that there can be no presumption under Section 35 of the NDPS Act that the applicant had knowledge and the *mens rea* that the vehicle was being used and loaded with narcotics without the establishment of foundation facts particularly when the

ownership of the vehicle is doubtful and there is no independent evidence to show that the applicant had knowledge that the pick-up vehicle had 'ganja' in it.

5] *Per contra*, the learned APP submits that there are three notary documents and the statement of the accused no.3, namely Sachin Shinde that he himself and the present applicant loaded the vehicle with ganja for transportation. He further submits that there are three similar offences registered against the present applicant. Considering the said fact, the bail should not be granted in favour of the applicant.

6] In response to the criminal antecedents, the learned counsel for the applicant relies upon the judgment of the Supreme Court in the case of **Prabhakar Tewari Vs. State of Uttar Pradesh & another** reported in [2020] 11 SCC 648 and submits that only on the basis of criminal antecedents the bail cannot be refused to the accused. *Prima facie* the connection of the accused with the offence has to establish.

7] Having considered the rival submissions, it is to be noticed that there is no evidence against the present applicant except three notary documents tracing the ownership of the vehicle to the applicant and one statement of the co-accused which cannot be used in the trial. The co-

accused has stated that the present applicant and the co-accused had loaded the pick-up vehicle with the narcotics for transportation. *Prima facie* there is no sufficient material to connect the present applicant in the alleged crime. Considering that the Sessions Court has granted bail in favour of the driver of the vehicle i.e. accused no.1, so also, there is scanty material to connect the present applicant in the alleged crime and the applicant is in jail from 27.09.2023, the applicant is granted bail. In view of the same, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.0158/2022, registered with Omerga Police Station, Dist. Osmanabad, for the offence punishable under Sections 20, 8 (c), 20 (B) (ii) (C), 29 (b) of the NDPS Act and Section 279 of the IPC, on furnishing PR bond of Rs.20,000/-, with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant shall not enter the jurisdiction of concerned Police Station, during pendency of the trial.

c] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

d] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

e] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

f] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

8] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE