

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1073 OF 2024**

Raja Gopal Devendra

...Applicant

Versus

State of Maharashtra

...Respondent

Mr Advait Tamhankar, *i/b Kamlesh Mahadev Satre, for the Applicant.*

Ms Megha S Bajoria, *APP for the Respondent-State.*

Mr Rakesh Deshmukh, *API attached to DCB, CID, Unit 3, Mumbai, present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 17TH OCTOBER 2025

PC:-

1. By way of this Application, the Applicant seeks his release on bail in connection with C.R.No.35 of 2022 (Special Case No.612 of 2023), registered with the Matunga Police Station, Mumbai (DCB-CID Unit-III, Mumbai C.R.No.74 of 2022) for the offences punishable under Sections 8(c), 20(b) (ii) of the Narcotic Drugs and Psychotropic Substances, Act,

1985 ('NDPS Act' for short). Thereafter, Sections **20(c)** and 29 of the NDPS Act were also invoked.

2. The facts of the case, in brief, are that:-

2.1 On 9th November, 2022, during patrolling by the officials of the DCB-CID, Unit-III, the Applicant herein was found lurking in suspicious circumstances in Wadala area. After following due process of law and complying with the provisions of the NDPS Act, search of the Applicant was undertaken and from the dicky of the Applicant's scooter, transparent plastic pouch was recovered. On further examination, it was found that the substance was *Charas* and the weight of said substance was 2.7 kgs. FIR was registered and the Applicant was arrested on 9th November 2022.

3. The Applicant made a bail application before the NDPS Special Judge, City Civil & Sessions Court, Greater Bombay, however, by order dated 8th November 2023, the same came

to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Advait Tamhankar, learned counsel appearing for the Applicant, submits that the Applicant is in custody since 9th November 2022 and has suffered incarceration for as many as 3 years and till date, charges are not framed. He submits that only on the ground of long incarceration, the Applicant deserves to be enlarged on bail. He further submits that the Applicant has no antecedents.

5. *Per contra*, Ms. Megha Bajoria, learned APP representing the State, submits that although 2.7 kgs. of *Charas* is recovered from the Applicant, there is connection between the Applicant and co-accused from whom 19 kgs of *Charas* was recovered. She points to *Panchanama* dated 15th November 2022 to link the Applicant with the co-accused whereby according to Ms. Bajoria, it is clear that the present Applicant was purchasing *Charas* from the co-accused for distribution. She thus, submits that Section 29 of the NDPS Act is invoked

against both the accused and they are running a racket for distribution of *Charas* in the area and hence, she submits that the Application be rejected.

6. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. It appears that the Applicant is behind bars from 9th November, 2022, i.e., for a period of 3 years. Charge-sheet was filed in March, 2023 and till date, charges are not framed. Having regard to the facts and circumstances of long incarceration of the Applicant without there being any real possibility of completion of trial, particularly having regard to the series of judgments wherein the Supreme Court has held that, prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution of India and in such a situation, conditional liberty must override the statutory embargo created under Section 37(1)(d)(ii) of the NDPS Act and considering that the Applicant has no antecedents, I am

inclined to enlarge the Applicant on bail subject to the following conditions:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

ii) The Applicant is directed to furnish provisional cash bail of Rs.50,000/- for his release immediately and file an undertaking that he will provide one or two sureties in the like amount of Rs.50,000/- within a period of four weeks after his release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;

iii) The Applicant shall attend the Police Station concerned once in a month on the first Saturday of every month between 11:00 a.m. to 02:00 p.m. till the charges are framed;

iv) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the Police Station concerned , if any;

vi) The Applicant shall not leave India, without the permission of the Trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court

seized of the matter and to the Investigating Officer of the Police Station concerned ;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

8. Application is allowed in the above terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)

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signed by
SHAMBHAVI
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SHIVGAN
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