

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2956 OF 2024

Mahesh Manohar Kavankar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Rajkumarlaxman Arjunrao Rajhuns, Advocate for Applicant
- Ms. Rajeshree V. Newton, APP for Respondent - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : MAY 06, 2025

P. C.:

1. Heard Mr. Rajhuns, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent - State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with C.R. No. 130/2021 registered at Tilak Nagar Police Station, Mumbai (now Special Case No. 504/2022) for offences punishable under Sections 8(c) r/w Section 22(b) of the Narcotic Drug and Psychotropic Substances Act, 1985 (for short "**NDPS Act**").

3. On 24.04.2025 after hearing learned Advocates for the parties following order was passed:-

" 1. Heard Mr. Rajhuns, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent – State.

2. In the present case, Applicant is in prison for the past more than 3 years and ½ years for the offences punishable under the Narcotic and Psychotropic Substances Act, 1985 (for short “NDPS Act”). He was apprehended with more than 600 bottles of the alleged contraband cough syrup bottles manufactured by a company called ‘Laborate’. Even according to prosecution case it is *prima facie* seen that alleged contraband was kept in 3 cardboard boxes placed next to the Applicant.

3. In the present crime, there are 2 Accused persons. Other co-accused who accompanied the Applicant has been enlarged on bail by the Court as informed by the learned Advocate for Applicant.

4. Learned Advocate for Applicant would submit that Applicant is an Electrician by profession which is also borne out from the Intelligence Input Information which was received by the prosecution and appended at page No.55 of the Application. He would submit that there is no appraisal of his right under Section 50 of the NDPS Act complied with by the prosecution which can be seen from the documents annexed to the Application. Non-compliance of the provisions of Section 50 in the present case itself is a substantial ground for considering the Applicant’s case for grant of bail apart from his long incarceration pending trial for the past 3 and ½ years which itself is a strong case made out by the Advocate for Applicant for bail.

5. Learned prosecutor shall take appropriate instructions and apprise the Court on the next adjourned date on the aforesaid issues to enable the Application to be considered.

6. List the Bail Application on Board on **2nd May 2025**. To be placed under the caption ‘**First on Board**’.

4. Today, Mr. Rajhuns has placed on record copy of the order dated 01.12.2022 passed by this Court (Coram : M.S. Karnik, J.) enlarging co-accused person on bail. *Prima facie*, it is seen that the role attributed to present Applicant is no different whatsoever according to the prosecution case with the role of said co-accused person. In that view of the matter and considering the long incarceration of Applicant for the past 3 and 1/2 years as also on the ground of parity, Applicant has made out a case for grant of bail. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

5. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

6. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]