

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4907 OF 2024**

Sandesh Ashok Kharat	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

**WITH
BAIL APPLICATION NO.3441 OF 2024**

Samsher Gulmohammad Khan	...Applicant
<i>Versus</i>	
State of Maharashtra _____	...Respondent

Mr. Shekhar S. Bhandary, for the Applicant in BA/4907/2024.
Mr. Rajendra S. Bidkar, for the Applicant in BA/3441/2024.
Ms. Megha S. Bajoria, APP for the Respondent – State in both
the bail applications.
API – P.Y. Kadri, Vashind Police Station, Thane Rural, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 02ND DECEMBER 2025

PC:-

1. By this Application, the Applicants seek their enlargement on bail in connection with C.R.No.238 of 2023 dated 16th December, 2023, registered with the Vashind Police Station, Thane, for the offences punishable under Sections 8

(c), 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS').

2. The facts of the case, as discerned from the FIR, are that on 16th December 2023, the police received a secret information that the Applicants and another co-accused has stored a huge quantity of *Ganja* at the residence of one of the co-accused. After complying with the statutory provisions of the NDPS Act, the raiding party went to that house. The co-accused was standing outside his house and after confirmation that he was staying in the said room, which he had rented from one Vandana Vasant Nirbhavne, the police searched the said premises and recovered the contraband substance namely *Ganja*. The Applicants herein were found to be inside the house. The Applicants were thus arrested alongwith co-accused pursuant to the FIR registered in the present case.

3. The Applicants filed bail application before the Additional Sessions Court, Kalyan. However, by order dated

19th July 2024, the said application was rejected. Hence, the Applicant is before this Court for the relief as prayed.

4. Mr. Bhandary, learned Counsel for the Applicant in BA No.4907 of 2024 and Mr. Bidkar, learned Counsel for the Applicant in BA No.3441 of 2024, seek bail on two grounds: firstly, on the merits of the case and secondly, on the ground that even the charge-sheet is filed beyond the statutory period of 118 days and they are entitled to be granted default bail.

5. On merits, they submit that there is an absolute non-compliance of the provisions of the NDPS Act. As far as Section 42 of the Act is concerned, the intelligence received by the police was not reduced in writing properly to be communicated to the superior officers. They pointed to a letter alleged to be compliance of Section 42 of the Act. They also pointed to the general diary details, which according to them, is signed by one Mr. Pardeshi, who is not the person who received the information. They further drew my attention to the Inventory Certificate. The Inventory Certificate pertains

to a quantity of 29.03 kgs of *Ganja* as recovered from his house. However, the panchanama shows the recovery of 41 Kgs and 324 grams of *Ganja* from the Applicants and co-accused. They submit that there is a major discrepancy in the quantity of *Ganja* recovered. They further submit that the Applicant have already undergone more than one and half year of incarceration and yet the charges are not framed as on date. They submit that there are 32 witnesses as cited by the prosecution and it is not likely that the trial will conclude in the near foreseeable future. On these grounds, Mr. Thombre prays that the Applicant be enlarged on bail.

6. *Per contra*, Ms. Bajoria, learned APP, in reference to the general diary details, submits that Mr. Pardeshi is only the person who has printed the said form, not the person who recorded the intelligence. She further submits that the information note is in complete compliance of the provisions and the requirement of the NDPS Act. She fairly concedes that there is difference in the weight of the *Ganja* in the Inventory

Panchanama and the statement in the FIR. Ms. Bajoria submits that all these alleged discrepancies can be decided at the time of the trial.

7. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

8. At the outset, the Inventory Panchanama shows that a quantity of 29.03 kgs of *Ganja* was recovered from the Applicants, whereas the statement in the FIR shows huge rise in the weight of the *Ganja* recovered. The discrepancy in both these statements is quite significant. Admittedly, in view of the significant discrepancy in the quantity of *Ganja* recovered from the Applicants, there are reasonable grounds to believe that the Applicants are not guilty of the said offence. Additionally, the charges are also not framed till date and the Applicants have also suffered incarceration for about more than one and half year. It is also unlikely that the trial may conclude in the near foreseeable future.

9. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under:-

ORDER

- i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- each with one or two local sureties in the like amount;
- ii) The Applicants shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iii) The Applicants shall also attend the Police Station concerned once in a month between 11:00 a.m. to 02:00 p.m., till the charges are framed;
- iv) If the Applicants have not deposited their passport, if any, the Applicants shall deposit the same with the Police Station concerned;

v) The Applicants shall not leave India, without the permission of the Trial Court;

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

vii) The Applicants shall inform their latest place of residence and contact 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;

viii) The Applicants to co-operate with the conduct of the trial;

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

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

11. 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)