

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5297 OF 2024**

Kiran Bhaktya Konda ...Applicant
Versus
The State Of Maharashtra ...Respondent

**WITH
BAIL APPLICATION NO. 4644 OF 2024**

Prasad Santosh Chawle ...Applicant
Versus
The State Of Maharashtra ...Respondent

Mr. Rajendra S. Bidkar, *for the Applicant in both the matters.*
Ms. Anuja S. Gotad, *APP for the State-Respondent.*
PSI – R. P. Shinde, *Bhiwandi Crime Branch, is present.*

CORAM Dr. Neela Gokhale, J.
DATED: 13th NOVEMBER 2025

PC:-

1. By way of the present Applications, the Applicants seek their release on bail in connection with FIR No. 181 of 2023 dated 28th May 2023 registered with Kongaon Police Station for the offence punishable under Sections 8(c), 20(c) and 29

of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. Since the role attributed to the Applicants namely Kiran Konda and Prasad Chawle i.e. the Applicants in Bail Application Nos. 5297 2024 and 4644 of 2024 is identical, both the applications are being disposed of by a common order.

3. The facts of the case, in brief, are that on receipt of secret information by the Crime Branch Unit-II, that two persons were coming to Bhiwandi in S-Presso car and they would be carrying Ganja in the said car, a trap was laid. They came on cue, were stopped and apprehended. After complying with the statutory provisions of the NDPS Act, the Accused/Applicants were searched and 41 kg and 100 grams of Ganja was recovered from two gunny bags from the car weighed 20.6 kg and 20.5 kg respectively. Accordingly, the FIR was registered and the Accused/Applicants were arrested.

4. A sample of the contraband was sent to the FSL for testing and the FSL reported the substance to be positive for ganja. The Applicants filed applications seeking bail from the Sessions Court, NDPS, Bhiwandi at Thane. However, by respective orders passed by the Sessions Court, the bail applications of both the Applicants were rejected. Hence, the Applicants are before this Court for the relief as prayed.

5. Admittedly, the Applicants were arrested on 27th May 2023 and till date, charges are not framed. Ms. Anuja Gotad, learned APP, fairly concedes that there are no antecedents against either of the parties.

6. Considering the long incarceration of both the Applicants for a period of more than two years without even charges being framed, the fundamental right of the Applicants is being violated. The Apex court in a series of its decisions has observed that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under

Article 21 of the Constitution of India, and as such conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act may in such circumstances be considered. The Applicants are not likely to commit the offence again, since there are no antecedents against the Applicants.

7. In these circumstances, I am inclined to enlarge the Applicants on bail and it is ordered as under:

ORDER

- i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/- each with one or two local sureties in the like amount;
- ii) The Applicants shall attend the Police Station concerned, on first Monday of every month between 10:00 a.m. and 12:00 noon, till the charges are framed by the Trial Court. They shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicants are exempted from appearance by orders of the Trial Court;

- iii) The Applicants shall not leave the jurisdiction of the State of Maharashtra without permission of the Trial Court;
- iv) If the Applicants have not deposited their passport, the Applicants shall deposit the same with the concerned Police Station, if any;
- v) The Applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicants shall inform their latest place of residence and mobile 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 concerned Police Station;
- vii) The Applicants to co-operate with the conduct of the trial;
- viii) 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 Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)