

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4891 of 2024**

Anand Kumarji ...Applicant
Versus
State of Maharashtra _____ ...Respondent

Mr. Taraq Sayed *a/w Ashwinii Achari, Anish Pereira, for the Applicant.*

Ms. Poonam P. Bhosale, *APP for the State-Respondent.*

Mr. Manikrao Aghar, *ANC, Azad Maidan Unit, Mumbai is present.*

CORAM Dr. Neela Gokhale, J.
DATED: 26th November 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 99 of 2023 dated 7th December 2023 registered with the Anti Narcotic Cell, Azad Maidan Unit, Mumbai for the offences punishable under Sections 8(c), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. The facts of the case, in brief, are that on 7th December 2023, between 11:50 hours and 13.30 hours, the police found the Applicant and another Accused near Wings Sports Centre, Mumbai lurking in suspicious circumstances. On complying with the statutory provisions of the NDPS Act, they apprehended the Applicant and the other Accused. A quantity of 1.4 kg of Hashish Oil was recovered from the present Applicant and 600 grams of Hashish Oil was recovered from the other Accused. The other Accused namely Udaya Kumar Devendra is enlarged on bail by the Special Court on the basis that the substance recovered from him was of intermediate quantity.

3. The Applicant made an application seeking bail before the Special Judge (NDPS) at Greater Bombay. However, by order dated 17th October 2024, the said application was rejected. Hence, the Applicant is before this Court for the relief as prayed.

4. At the outset, Mr. Taraq Sayed, learned Counsel for the Applicant, has drawn my attention to a discrepancy in the letter dated 18th December 2023 issued by Mr. Nilesh Bhalerao, an officer of the ANC, Azad Maidan Unit to the Magistrate. The description given in the said letter indicates that the substance was placed in a transparent plastic bag tied in a knot. The plastic bag was placed in a transparent plastic jar which was in-turn placed in a cloth bag tied with a jute string and knotted. However, the Spot Panchanama recorded on 7th December 2023 clearly indicates that the substance recovered from the Applicant was placed in a zip-lock plastic bag, which was then placed in a transparent plastic jar which in-turn was placed in a white cloth bag which is knotted by a jute string. Mr. Sayed points to this discrepancy and submits that there is non compliance of the statutory provisions of the NDPS Act and on this ground alone the Applicant deserves to be enlarge on bail. He further submits that the Applicant is in custody from 7th December 2013 and till date even the

charges are not framed. He thus prays that the Applicant be enlarged on bail.

5. *Per contra*, Ms. Poonam Bhosale, learned APP, submits that a commercial quantity of the contraband was recovered from the Applicant and the offences are serious. There is no substantive non compliance with the provisions of the NDPS Act and the discrepancy is not so significant that the provisions of Section 37 will be mitigate. She submits that the CA report is received as positive. However, there are no antecedents against the Applicant. She thus resists the Bail Application.

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

7. Admittedly, the Applicant is in custody since 7th December 2023. The quantity of Hashish Oil recovered from him is 400 gms more than the non-commercial quantity as

provided in the Act. Admittedly, there is a discrepancy in the manner of packaging of the said substance as depicted in the Panchanama as compared to that recorded in the letter vide which the samples are placed before the Magistrate. *Prima facie*, there appears to be some doubt as to whether the Applicant committed the offence as alleged. The embargo of Section 37 of the NDPS Act is thus, satisfied. *Prima facie*, there is reasonable ground to believe that the Applicant has not committed the said offence. There are no antecedents pertaining to the Applicant.

8. Considering the facts and circumstances as well as the length of incarceration, I am inclined to enlarge the Applicant on bail and it is ordered as under:

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 shall attend the office of ANC, Azad Maidan Unit, Mumbai, on first Monday of every month between 10:00 a.m. and 12:00 p.m., till the charges are framed. He shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;

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

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

v) The Applicant shall not leave India, without permission of the trial Court;

vi) The Applicant shall inform his 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 Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail;

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

10. 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)