

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 4224 OF 2024

Sibanda Jonathan Benin ...Applicant
Versus
The State of Maharashtra ...Respondent

AND

CRIMINAL BAIL APPLICATION NO. 5243 OF 2024

Sunday Egbulon Benjamin @ Egubulen
Benjamin Sunday ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Vikas Shinde, Advocate for the Applicant in B.A. No.4224 of 2024.

Mr. Shekhar S. Bhandary a/w Mr. Kartik S. Bhandary, Advocate for the Applicant in B.A. No.5243 of 2024.

Mrs. G. S. Rao, A.P.P. for the Respondent – State.

Mr. Madhukar Shirkhe (PSI), Kharghar Police Station, present.

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CORAM : N. R. BORKAR, J.
DATE : 30th APRIL, 2025

P.C.:

1. As both these applications are arising out of one and the same crime, they are being disposed of by this common order.

2. The applicants came to be arrested in Crime No. 257 of 2023 registered at Kharghar Police Station, District : Navi Mumbai for the offences punishable under Sections 353, 332 r/w Section 34 of Indian Penal Code and Sections 8(c), 21(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. On 25.07.2023, on the basis of secret information, the Flat No.E-81 at Kharghar, Navi Mumbai was raided. The search of the applicants, who were occupants of the said flat was taken and 523 gm. of Methaqualone was found from the possession of the applicant in Criminal Bail Application No.4224 of 2024 and 522 gm. of Methaqualone was found from the possession of the applicant in Criminal Bail Application No.5243 of 2024.

4. I have heard the learned counsel for the applicants and learned A.P.P. for the Respondent-State.

5. The learned counsel for the applicants submits that the information was received by Police Head Constable Mr. Gosavi. It is submitted that there is nothing on the record to show that the said information was forwarded by him to his

immediate Superior Officer in terms of Section 42(2) of the NDPS Act. It is submitted that thus there is non-compliance of Section 42(2) of the NDPS Act. It is submitted that the applicants are in jail for two years and there are no other criminal antecedents against them.

6. On the other hand, the learned A.P.P. for the Respondent-State submits that as the applicants were found in possession of the commercial quantity of contraband, Section 37 of the NDPS Act would attract and unless the condition mentioned in said Section are satisfied, the applicants are not entitled to bail. It is submitted that instead of releasing the applicants on bail, the trial be expedited.

7. I have perused the charge-sheet. *Prima facie* there appears to be substance in the submission of the learned counsel for the applicants. Apart from it, the applicants are in jail for two years and there are no other criminal antecedents against them. Considering the said facts, I am inclined to release the applicants on bail.

ORDER

- (i) Criminal Bail Application is allowed;

- (ii) The applicants are directed to be released on bail in connection with Crime No. 257 of 2023 registered at Kharghar Police Station, District : Navi Mumbai for the offences punishable under Sections 353, 332 r/w Section 34 of Indian Penal Code and Sections 8(c), 21(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on executing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;
- (iii) The applicants shall attend the concerned Police Station once in a month i.e. on first Saturday between 11:00 a.m. to 1:00 p.m. till conclusion of trial;
- (iv) The applicants shall not commit any other crime.
- (v) It would be open to the prosecution to file an application for cancellation bail, if the applicants commit breach of any of the conditions.
- (vi) Application is disposed of in the aforesaid terms.

(N. R. BORKAR, J.)