

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.508 OF 2025

Nitin Ashok Bhosale

.. Applicant

Versus

Union of India and Anr.

.. Respondents

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- Mr. Anil G. Lalla a/w. Mr. Yash Palekar, Advocates for Applicant.
- Ms. Aruna Pai, Special Counsel for Respondent No.1.
- Mr. Hitendra J. Dedhia, APP for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 13, 2025

P.C.:

1. Heard Ms. Lalla, learned Advocate for Applicant; Ms. Pai, learned Special Counsel for Respondent No.1 and Mr. Dedhia, learned APP for Respondent No.2.

2. Present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeks bail for Applicant in connection with F.No.NCB/MZU/CR-30/2022 in an offence punishable under Section 8(c) read with Sections 21(c), 25, 28 and 29 of the Narcotics and Psychotropic Substances Act, 1985 (for short '**NDPS Act**').

3. The record *prima facie* shows that Applicant as also his wife are both Human Immunodeficiency Virus (HIV) positive and health of Applicant is deteriorating rapidly with each passing day while in prison. *Prima facie*, trial will take some time to complete. Incarceration of Applicant is in the offence punishable under provision

of NDPS Act for being apprehended in possession of alleged contraband namely 5180 bottles of Chlorpheniramine Maleate and Codeine Phosphate Phensirest Cough Syrup manufactured by Smilax Health Care Private Limited of Himachal Pradesh in his possession consealed in 8 cartons.

4. Ms. Pai, learned SPP in her usual fairness after considering the order dated 07.03.2025 and the report placed before the Court by learned APP from the Taloja Central Prison of the Chief Medical Officer of Taloja Central Prison Hospital states that Applicant is suffering from Sero HIV positive and for that reason his ART treatment is going on as considering the same.

5. She would persuade the Court to withhold passing of any *prima facie* observations on merits of the matter lest it would hamper the prosecution case at the time of trial and in view of confirmation of the fact that Applicant is HIV positive and his ART treatment is going on would urge the Court to pass appropriate orders. Stand adopted by Ms. Pai, learned SPP is appreciated by the Court in the present facts of the case before me.

6. Without delineating any opinion on the merits of the matter and in view of the report dated 06.03.2025 annexing the Medical report of Applicant addressed by the Chief Medical Officer to this Court in compliance with the order of this Court dated 04.03.2025,

Applicant is directed to be released on bail on medical grounds subject to following 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 with 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.

7. 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.

8. Bail Application No.508 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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