

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.572 OF 2025

Sachin Narsingh Shinde	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Narayan G. Rokade a/w. Mr. Udaysinh Deshmukh, Ms. Prathibha Pawar, Mr. Siddharth Ghodke, Mr. Abhang Suryawanshi, and Mr. Ramchandra Wagh, for the Applicant.
Mr. S. S. Ghag, APP, for the Respondent-State.
Mr. Digambar Kokate, PSI, ANC, Crime Branch, Pune, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 7th APRIL 2025

PC:-

1. Heard Mr. Rokade, learned Counsel appearing for the Applicant and Mr. Ghag, learned APP appearing for the Respondent-State.
2. This is a second Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*.
3. By order dated 22nd April 2024, the first Bail Application bearing Bail Application No.1537 of 2023 is allowed to be withdrawn by this Court, as this Court was not inclined to grant

bail. By the said order dated 22nd April 2024, the Applicant has been granted liberty to file a fresh Bail Application after a period of 10 months, if there is no substantial progress in the trial. Pursuant to the said liberty the present Bail Application is filed.

4. The relevant details are as follows:-

1.	C. R. No.	538 of 2021
2.	Date of registration of F.I.R.	17/07/2021
3.	Name of Police Station	Hadapsar Police Station, Pune
4.	Section/s invoked	8(c),20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”)
5.	Date of incident	17/07/2021
6.	Date of arrest	17/07/2021
7.	Date of filing of Charge-sheet	01/01/2022

5. At the outset, Mr. Rokade, learned Counsel appearing for the Applicant submits that the Applicant is not seeking bail on merits and only seeking bail on the ground of violation of the Applicant’s right of speedy trial. On the other hand, Mr. Ghag, learned APP submits that as the offence is very serious the Bail Application be dismissed.

6. As already noted herein above, the earlier Bail Application has been allowed to be withdrawn by order dated 22nd April 2024. Thus, on merits Bail Application has been allowed to be withdrawn and dismissed as such.

7. However, the position on record shows that the Applicant has been arrested on 17th July 2021. Accordingly, the Applicant has completed incarceration for a period of about 3 years and 10 months. As far as the progress of the trial is concerned, except framing of the charge on 19th December 2023, there is no progress in the trial.

8. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail. If the Applicant’s detention continues, it will amount to an

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial.

9. Section 37 of the NDPS Act is as follows:

“37. Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure,

1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

(Emphasis added)

Thus, as per Section 37 of the NDPS Act, following requirements are mandatorily to be complied with before releasing the Accused on bail:

“(i) The Public Prosecutor is to be given an opportunity to oppose the application seeking bail;

(ii) Where the Public Prosecutor opposes the application:-

(a) The court is required to record satisfaction that there are reasonable grounds for believing that the Applicant is not guilty of such offence;

(b) The Court is required to record satisfaction that the Applicant is not likely to commit any offence while on bail.”

10. Although Section 37 of the NDPS Act provides that bail should not be granted to an accused unless the accused is able to satisfy twin conditions i.e. reasonable ground for believing that the accused is not guilty of such an offence and that the accused would not commit an offence or is not likely to commit an offence, if

granted bail, the Supreme Court in the case of *Rabi Prakash vs.*

*The State of Odisha*² has held as follows:

*“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. **The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.**”*

(Emphasis added)

Thus, the Supreme Court has held that the prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

11. Perusal of the record shows that in the present case, the incident in question occurred on 17th July 2021, F.I.R. was lodged on 17th July 2021, the Applicant was arrested on 17th July 2021 and the Charge-sheet was filed on 1st January 2022. There is no progress in the trial, except framing of the charge on 19th December 2023. As per the Charge-sheet, there are 17 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

12. However, it is also required to note that there is an antecedent under the provisions of the NDPS Act against the Applicant.

13. Accordingly, the Applicant can be enlarged on bail by imposing stringent conditions.

14. In view thereof, the following order:

ORDER

(a) The Applicant – Sachin Narsingh Shinde be released

on bail in connection with C.R. No.538 of 2021 registered with the Hadapsar Police Station, District - Pune on his furnishing PR. Bond of Rs.2,00,000/- with one or two local solvent sureties in the like amount.

- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Hadapsar Police Station, District - Pune once every week, on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial.
- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

15. The Bail Application is disposed of accordingly.

16. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]