

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1019 OF 2025

Sagar Santosh Shelar .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Rajendra Bidkar, Advocate for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent.
 - API – P. Y. Kadri, Vasind Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 17, 2025

P.C.:

- 1.** Heard Mr. Bidkar, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent.
- 2.** This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.143 of 2024 registered with Vasind Police Station for offences punishable under Sections 8(c), 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “**NDPS Act**”).
- 3.** After hearing Mr. Bidkar and Ms. Ganapathy, learned APP on 10.03.2025 the following order was passed:-

“1. Heard Mr. Bidkar, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent.

2. Applicant has been arraigned as Accused and on apprehension of Applicant from a flat belonging to another co-accused. The four co-accused persons in the flat were found in possession of 7 kilogram 765 grams of ganja.

3. *Mr. Bidkar, would persuade the Court to consider the fact that rigors of rigors of Section 37 of the Narcotics and Psychotropic Substances Act, 1985 (for short 'NDPS Act') would not apply as alleged contraband is of intermediate quantity.*

4. *Mr. Bidkar would also inform the Court that Applicant runs a vada-pav business and he was probably visiting friends in the flat at the time when the raid took place and therefore an opinion can be formed that Applicant is not guilty of possessing the alleged contraband.*

5. *Learned APP shall take cognizance and accordingly apprise the Court on the next adjourned date. Considering that Applicant is young offender, list the Application on 17th, March, 2025. To be placed under the caption 'First on Board'."*

4. The case of Applicant is that he was standing outside the house where the prosecution raid was carried out and on being questioned by prosecution agency, Applicant was apprehended alongwith other three co-accused.

5. The alleged contraband as noticed by the Court is admittedly of intermediate quantity. That apart, Mr. Bidkar would persuade the Court to consider the violation of certain statutory provisions namely Section 50 of the NDPS Act which does not record endorsement as also Section 52 of the NDPS Act at the time inventory panchnama and inventory certificate appended at page No.57 of the Application. However considering *prima facie* submissions of Mr. Bidkar which appeals to the Court, as also the fact that nexus of Applicant is *prima facie* not shown by prosecution with other co-accused from whom the alleged contraband has been recovered, Applicant is granted bail 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) 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;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) 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;
- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(viii) 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.

6. 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.

7. Bail Application No.1019 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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