

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1072 of 2025**

Juned Ashrafali Shaikh ...Applicant
Versus
State of Maharashtra ...Respondent

Ms. Lochan P. Chandka a/w Raunak Naik, for the Applicant.
Mr. Yogesh Y. Dabke, APP for the State-Respondent.
ASI – Baban Bande, Thane Crime Branch Unit – 4, Ulhasnagar,
is present.

CORAM Dr. Neela Gokhale, J.
DATED: 4th NOVEMBER 2025

PC:-

1. By way of the present Bail Application, the Applicant seeks his release on bail in connection with CR No. 598 of 2023 dated 29th July 2023 registered with Narpoli Police Station, Mumbai for the offences punishable under Sections 8(c) and 20(2)(g) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. The facts of the case, in brief, are that on 28th July 2023, an information was received by the police that one person was

in possession and was selling contraband near Bhandari Compound, Bhiwandi. Upon receiving the information, the police raided the spot of offence along with panchas. They noticed one person on the spot lurking in suspicious manner. The raiding party introduced themselves to the said person and after complying with the necessary provisions of the NDPS Act, arrested him. The said person was the Applicant herein. There were two bags with the Applicant. One bag contained 8 packets and other bag contained 5 packets. It was found that these packets contained Ganja. Accordingly, the present FIR came to be registered and the Applicant was arrested.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Bhiwandi. However, by order dated 1st January 2025, the said application was rejected. Hence, the Applicant is before this Court for the relief as prayed.

4. Ms. Lochan Chandka, learned Counsel for the Applicant, submits that while the Applicant is arraigned as an accused having recovered 26.190 Kg. of Ganja from him, there is a non compliance of Section 41 of the NDPS Act as there is no information note and the alleged information has not been forwarded to the superior immediately as required under the Act. She also submits that there was mixing of contraband which was found in the 8 and 5 packets in the bags when the seizure took place. Hence, it is not established that the entire contraband weighing 26.190 kg. was altogether Ganja. She also submits that the Applicant was arrested on 29th July 2023 and has suffered incarceration of 2 years and 4 months without framing of charges. She then submits that till date, the CA report also has not been received from the FSL. In these circumstances, she submits that the Applicant be released on bail.

5. *Per contra*, Mr. Yogesh Dabke, learned APP, relying upon the decision of the Supreme Court in the case of ***Bharat***

*Aambale Vs. The State of Chattisgarh*¹. Where the Supreme Court has clearly opined that a mere assertion by the accused of non compliance of Section 52A of the NDPS Act may not be sufficient and the initial burden is always on the accused to lay down the foundational facts for establishing that there is a non compliance of the said Section, either by leading evidence on their own or by relying upon the evidence of the prosecution itself. He submits that, at best, this Court can direct the CA report to be expedited. Thus, he resists the Bail Application.

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

7. It appears that the Applicant is behind bars since 29th July 2023 in connection with the said FIR. Although chargesheet has been filed on 19th January 2024, till date the charges are not framed and even the CA report has not been procured from the FSL concerned. At this point, Mr. Dabke

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states that a reminder letter has been issued by the police station concerned to the FSL. However, the CA report is still awaited. The FSL concerned is directed to expedite the submission of CA report and preferably within a period of 15 days from the date this order is uploaded.

8. Having regard to the facts and circumstances of long incarceration of the Applicant without there being any real possibility of early completion of the trial, 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 sureties in the like amount;
- ii) The Applicant shall attend the Narpoli Police Station, on first Monday of every month between 10:00 a.m. and 12:00 noon, till the charges are framed by the Trial Court. 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 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;

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

vii) 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)