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

BAIL APPLICATION NO.1273 OF 2025

Ganesh Prabhakar Bavaskar	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Ms. Zehra Charania with Mr. Ayaz Khan, Mr. Dilip Mishra and Ms. Mallika Sharma for the applicant.

Ms. Supriya Kak, APP for the State.

M. Nilesh More, API, Anti Narcotics Cell, Thane, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 12, 2025

P.C.:

1. This is an application for bail filed by the applicant–accused in connection with C.R. No.301 of 2023, registered with Kasarvadavali Police Station, for offences punishable under Sections 8(c), 22(c), and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “*NDPS Act*”), as also under Sections 18(A), 18(c), 27B, and 28 of the Drugs and Cosmetics Act, 1940.

2. The brief facts of the prosecution case are as follows:

The present crime was registered on the basis of specific information received by the police on 9th September 2023 at

around 11:00 a.m., to the effect that a person named Amjad Iqbal Pathan had kept a large stock of certain syrup bottles, allegedly containing narcotic substance, in a locked premises at Y.R. Enterprises Stone Quarry. Upon receiving the said tip-off, the police, after following due procedure under the NDPS Act, reached the location. On personal search of accused Amjad, his mobile phone was recovered. Thereafter, the team proceeded to search the locked room. The search resulted in recovery of 13 boxes containing 1259 bottles of syrup suspected to contain Codeine Phosphate and Triprolidine Hydrochloride. Based on this recovery, the First Information Report was registered.

3. Accused Amjad (accused No.1) and Ravindra (accused No.2) were arrested during investigation. The present applicant, who is accused No.5, came to be arrested later on 23rd November 2023. The specific role attributed to the applicant is that certain funds were transferred from his personal bank account to the bank account of one Chhaganlal Gachi alias Sanju Modi, who is allegedly an associate of co-accused Paresh Jain. The said financial transactions were traced to the period January to March 2023, while the raid and recovery took place several months later in September 2023. There is no allegation of physical possession or presence of the applicant at the site of recovery.

4. The applicant had earlier filed a bail application before the learned Special Court under NDPS Act, which came to be rejected on 1st February 2025. The applicant has therefore approached this Court seeking relief under Section 439 of the Code of Criminal Procedure.

5. Learned Advocate for the applicant has relied upon the order dated 22nd April 2025 passed by a Coordinate Bench of this Court in Criminal Bail Application No.4659 of 2024, whereby accused Amjad Iqbal Pathan, from whose possession the narcotic substance was actually recovered, was granted bail. It is submitted that the applicant is not in conscious possession of the contraband, nor is any contraband recovered from him, and therefore, on the principle of parity, the applicant is also entitled to bail.

6. On the other hand, the learned Additional Public Prosecutor opposed the application and submitted that the role of the applicant is distinct and that the alleged transfer of funds connects the applicant to the syndicate or network involved in the procurement and distribution of contraband. It is submitted that considering the seriousness and gravity of the offence, the application for bail may not be entertained.

7. I have carefully perused the material on record, including the charge-sheet, the statements of witnesses, and the documents relied upon by the prosecution. Upon prima facie consideration, it appears that the main role is attributed to accused No.1 – Amjad, from whose possession the commercial quantity of contraband was recovered in a locked premises, which, as per the record, he had access to and knowledge of. He was thus found in conscious possession of the contraband substance, and based on that, a serious charge under Section 22(c) of the NDPS Act was invoked.

8. In contrast, the allegation against the present applicant (accused No.5) is limited to the transfer of certain funds from his

account to the account of one Chhaganlal Gachi alias Sanju Modi, who is allegedly connected with a co-accused. These financial transactions occurred between January and March 2023, whereas the actual recovery of contraband was in September 2023. There is no allegation of recovery from the applicant, nor is there any material to indicate that the applicant was in possession or custody of any contraband at any stage.

9. It is an admitted position that accused No.1-Amjad, who is found to be in conscious possession of a commercial quantity of contraband, has already been granted bail by this Court in Criminal Bail Application No.4659 of 2024, decided on 22 April 2025. Applying the principle of parity, which is a well-settled rule guiding judicial discretion in bail matters, it is clear that when a co-accused against whom a graver role is assigned has been granted bail, then a similarly or less placed accused should not be denied the same relief, unless distinguishable features are shown. In the present case, the prosecution has not placed on record any material to show that the role of the applicant stands on a higher or worse footing than accused No.1. In fact, the available material points to a comparatively peripheral role of financial transfer, which itself will be a matter for evidence during trial.

10. Therefore, in the interest of fairness, and considering the settled principle of parity, I am of the view that the applicant also deserves to be released on bail on the same terms and conditions as imposed in the bail order of accused Amjad.

11. Accordingly, the bail application is allowed, subject to the following conditions:

(a) The applicant shall be released on bail upon furnishing a Personal Recognizance (P.R.) Bond of ₹50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount to the satisfaction of the learned Trial Court;

(b) In view of the above discussion, the applicant is directed to be released on bail, subject to the following terms and conditions:

(a) The applicant shall be released on furnishing cash surety of Rs.50,000/-, and shall execute a Personal Recognizance (P.R.) Bond in the like amount within two weeks from the date of her actual release on bail;

(b) The applicant shall cooperate with the prosecution and shall remain present before the Trial Court on all dates of hearing without fail;

(c) The applicant shall not tamper with the evidence or attempt to influence any witness connected with the case;

(d) The applicant shall furnish her current residential address and mobile number to the concerned Investigating Officer, and shall immediately inform the Court and the prosecution in case of any change of address or contact details and shall mark his presense on first Monday of each month before concerned police station;

(e) The applicant shall not commit any offence during the

pendency of the trial. In the event of any such default, it shall be open to the prosecution to seek cancellation of bail.

12. It is made explicitly clear that the observations made in this order are only for the limited purpose of deciding this bail application. These shall not be treated as findings on merits at the time of trial, which shall be decided independently based on oral and documentary evidence brought on record.

13. The Bail Application stands disposed of in the aforesaid terms. No order as to costs.

(AMIT BORKAR, J.)