

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3488 OF 2025**

Bhairavkumar Gangaprasad Chaudhari ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Kamlesh Satre, *for the Applicant.*
Ms. Poonam P. Bhosale, *APP for the State-Respondent.*
PSI – Prashant Bhorse, *Khar Police Station, is present.*

CORAM Dr. Neela Gokhale, J.
DATED: 12th November 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 865 of 2023 dated 25th October 2023 registered with Khar Police Station, Mumbai for the offences punishable under Sections 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”).

2. There are in all four Accused. Accused Nos. 3 and 4 are enlarged on bail.

3. The facts of the case, in brief, are that on secret information received, the police laid a trap and after complying with the statutory provisions of the NDPS Act, apprehended Accused No. 1, who was found to be in possession of 1 Kg and 7 grams of Charas. The present Applicant arraigned as the Accused No.2, was standing with the Accused No.1. Hence, the present Applicant was also arrested, pursuant to the FIR registered against the Accused.

4. The Applicant filed a bail application before the Special NDPS Court, Greater Bombay. However, by order dated 7th October 2024, the said application was rejected. Hence, the Applicant is before this Court for the relief as prayed.

5. Mr. Kamlesh Satre, learned Counsel for the Applicant, submits that the Applicant is in custody since 25th October 2023 and till date, charges are not framed. He further submits that the CA report is not received as on date. Mr. Satre essentially seeks release of the Applicant on bail on the ground that there was no contraband recovered from the

Applicant. He also submits that there was no material on record to indicate that the complicity of the Applicant in the said offence, save and except he was found to be in the company of the Accused No. 1. He thus prays that the Applicant be released on bail.

6. *Per contra*, Ms. Poonam Bhosale, learned APP, submits that this is a serious offence. A commercial quantity of Charas was recovered from Accused No. 1, who was accompanied by the present Applicant. Section 29 is also invoked as there was a conspiracy between the parties to commit the said offence. She however, concedes that there are no antecedents insofar as the present Applicant is concerned. She prays that the Bail Application be rejected.

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

8. A plain reading of the FIR indicates that no contraband was recovered from the present Applicant. He was simply

found to be in company of the Accused No. 1 when the Accused No. 1 was arrested. Admittedly, there are no antecedents insofar as the present Applicant is concerned. The Applicant is in custody since 25th October 2023 and has already suffered incarceration of more than three years.

9. The Apex court in a series of its decisions has observed that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such conditional liberty overriding the statutory embargo created under Section 37 of the NDPS Act may in such circumstances be considered.

10. Having regard to the long incarceration of the Applicant as well as the fact that there was no recovery from him and in view of the fact that the trial of the case is not likely to conclude within a near foreseeable future, 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 local sureties in the like amount;
- ii) The Applicant shall attend the Khar 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;

11. Application is allowed in the above terms and is accordingly disposed of.

12. 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)