

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4310 OF 2025**

1. Ayush Chotelal Nigam
2. Shivam Sitaram Nigam ...Applicants
Versus
State Of Maharashtra ...Respondent

Mr. Anjaykumar R Kori, *with Pratiksha R Yadav, Pratibha Bhartia, i/b Deepak Kumar, for the Applicants.*
Ms. Poonam P Bhosale, *APP for the State-Respondent.*
Ms. Pallavi Dhage-Patil, *API attached to Gunhe Shakha, Wagle Vibhag-5, Thane, present.*

CORAM Dr. Neela Gokhale, J.
DATED: 21st November 2025

PC:-

1. By this Application, the Applicants seek their enlargement on bail in connection with C.R.No. 344 of 2025 dated 13th May 2025 registered with the Wagle Estate Police Station, Thane City for the offences punishable under Sections 123, 223, 275, 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023.

2. The case of the prosecution is that on 13th May 2025 while, the Applicant No.1- Ayush Chotelal Nigam (Driver) and Applicant No.2 - Shivam Sitaram Nigam (Cleaner), were on a pick-up tempo Bolero bearing registration No.MH-04-LQ-4832, the Police stopped them and the tempo was searched. After search, *Gutkha* of various brands were found in the Tempo. The said material was valued at Rs.1,42,000/-. The Applicants were questioned as to the name of the owner of Tempo, however, they were unable to provide the details of the same to the Police. The Applicants were also unable to delivery *challans* or any other document relating to the transport of the said material. Hence, the Applicants were arrested on 14th May 2025 pursuant to registration of an FIR.

3. The Applicants made application seeking bail before the Additional Sessions Judge, Thane, however, by order dated 29th September 2025, the same came to be rejected. Hence, the Applicants are before this Court for the reliefs as prayed.

4. Mr. Anjaykumar Kori, learned counsel appearing for the Applicant, submits that the Applicant Nos.1 and 2 were merely driver and cleaner of the Bolero Tempo, respectively and they were not aware of the contents of the Bolero Tempo. He points to a document at Page 106 of the Bail Application, which is Form No.24 of the Motor Vehicle Register maintained by the Maharashtra Transport Department Authority, Thane. This document clearly reveals the name of the owner of the Bolero Tempo. Upon investigation, the owner of the Bolero Tempo had also been identified. In these circumstances, Mr. Kori, submits that the Applicants have not committed any offence, they were merely driver and cleaner of the Bolero Tempo, engaged by the owner of the Tempo to ferry cargo from one place to another and prays that the Applicants be released on bail.

5. Ms. Poonam Bhosale, learned APP representing the State in the matter, on the other hand, submits that the offence is serious; the quantity of *Gutkha* in the cargo is huge; the

Applicants were unable to provide any bills or delivery *challans* or any other document to indicate that they were assigned the task of ferrying the said cargo from a particular place to another. She however, submits that the owner of the Tempo is absconding. She thus, prays that the Bail Application be rejected.

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

7. The documents on record clearly indicate that the owner of the Tempo is identified, however, the Police were unable to apprehend him as he was absconding. The Applicants are merely driver and cleaner, respectively of the Tempo. *Prima facie*, it appears that both the Applicants were unaware of the cargo that they were engaged to ferry. Considering that they have already spent 6 months in custody and the owner of the Tempo is absconding, it is not likely that the trial will

conclude in a foreseeable future. Admittedly, they are no antecedents against either of the the Applicants.

8. In view of the aforesaid, I am inclined to enlarge the Applicants on bail. Hence, the following order is passed:

ORDER

i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/- each, with one or two local sureties in the like amount;

ii) The Applicants shall attend the Police Station concerned once in a month on the first Monday of every month between 11:00 a.m. and 02:00 p.m.;

iii) The Applicants shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iv) If the Applicants have not deposited their passports, the Applicants shall deposit the same with the Police Station concerned, if any;

v) The Applicants shall not leave India, without the permission of the Trial Court;

vi) The Applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicants shall inform their latest place of residence and mobile 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;

viii) The Applicants to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. The 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 learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)

SHAMBHAVI
NILESH
SHIVGAN
Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
Date:
2025.11.24
19:34:43
+0530