

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

**INTERIM APPLICATION NO.1465 OF 2025
IN
CRIMINAL APPEAL NO.498 OF 2025**

Indrakumar Malya SuraramApplicant
Versus
The State of Maharashtra Respondent

Mr. Jitesh Jadhav, Advocate a/w. Onkar Wable, Padmavati
Vaishya for the Applicant.
Ms. Sangita D. Shinde, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th AUGUST, 2025

P.C. :

1. This is an Application for bail pending final disposal of the Appeal preferred by the Applicant.

2. The Applicant was the original accused No.1 before the learned NDPS Special Judge, Greater Mumbai in NDPS Special Case No.30/2011. The learned Judge, vide his judgment and order dated 23.12.2024 convicted the Applicant for commission of the offence punishable under Section 20(b)(ii)(B) r/w 8(c) of the Narcotic Drugs and

Psychotropic Substances Act, 1985 (for short 'NDPS Act'). He was sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.50,000/- and in default of payment of fine to suffer rigorous imprisonment for six months. The accused No.2 Kartik Ramlingam Naik was similarly convicted and sentenced. Both the accused i.e. accused No.2 and the present Applicant were acquitted from the charges of commission of the offence punishable u/s 8(c) r/w 29 of the NDPS Act, 1985.

3. Heard Mr. Jitesh Jadhav, learned counsel for the Applicant and Ms. Sangita Shinde, learned APP for the Respondent-State.

4. The prosecution case is that on 17/08/2010, PHC Nale attached to ANC, Kandivali Unit, Mumbai, received a secret information about two persons coming to Kandivali with Ganja. He shared the information with PI Gaikwad, who instructed his staff to call two Panchas. The information was sent to the office of DCP, ANC, Cuffe Parade, Mumbai. The staff of ANC, Kandivali Unit, made preparation

to conduct the raid. They went to the spot carrying equipments like official brass seal, sealing and labeling articles, weighing scale etc. At about 02.00 to 02.15 p.m. one autorikshaw came at the spot as per the information. Two persons got down from the autorikshaw. Both of them were having one jute gunny bag each. They went to a bus stop. The raiding party confirmed their identity with the information which was received. Both of them were confronted. The Applicant was found with 10 kgs of Ganja in his gunny bag and the accused No.2 Kartik Naik was found having 7 kgs of Ganja. The samples were drawn. Both of them were arrested. Their personal search was taken after making them aware of their rights. The FIR was lodged and the investigation was carried out. At the conclusion of the investigation, the charge-sheet was filed and the trial was conducted before the learned Special Judge. During the trial, the prosecution examined 4 witnesses.

5. P.W.1 Head Constable Kindre was the carrier of the sample to FSL.

6. P.W.2 Police Naik Rajesh Barge was attached to ANC. He had taken part in the raid.

7. P.W.3 Sandeep Chetti was the Chemical Analyser, who had submitted the report that the contraband seized from the accused was Ganja.

8. P.W.4 PHC Nale had taken part in the raid. He had received the secret information.

9. Learned counsel for the Applicant submitted that the Applicant was acquitted from the charges of commission of the offence punishable u/s 29 of the NDPS Act and therefore he was not responsible for the entire quantity of 17 kgs of Ganja. At the highest the allegations against him would be of carrying a gunny bag containing 10 kgs of Ganja. He submitted that the prosecution has not examined the Panchas and the main officer PI Gaikwad, under whose supervision, the raid was conducted. No explanation is offered by the prosecution. There is no independent corroboration to the raid conducted by the officers of ANC

Kandivali Unit. There was no reason to impose the maximum sentence of 10 years on the Applicant.

10. Learned counsel relied on the order passed by a Single Judge bench of this Court in the case of ***Shashikant Chandrakant Thorat Vs. State of Maharashtra*** as reported in ***2020 SCC OnLine Bom 6405***. He submitted that in that case the learned Judge while granting bail to the Applicant in that Application had observed that the contraband was less than the commercial quantity. It was one of the considerations for granting bail. In the present case also the contraband is less than the commercial quantity. He also relied on the order passed by this court on 12.8.2025 in Interim Application No.488/2025 in Criminal Appeal No.78/2025. This order was passed in favour of the co-accused i.e. accused No.2 Kartik Naik in this very case. He was granted bail pending his Appeal. Learned counsel submitted that on parity also the Applicant deserves to be released on bail pending his Appeal.

11. Learned APP relied on the evidence of P.W.2 and P.W.4 who had taken part in the raid. However, she could not

dispute the fact that the co-accused who was similarly placed was granted bail pending his Appeal.

12. I have considered these submissions. The offence pertains to August 2010. For fourteen long years the Applicant was on bail. There are no allegations and he had misused that liberty. He was taken in custody after his conviction on 23/12/2024. Thus, he is in custody for about eight months after his conviction. The prosecution has not offered any explanation as to why the independent panchas and the Supervising Officer P.I. Gaikwad were not examined. The aspect will have to be considered at the final hearing stage.

13. The learned counsel rightly relied on the observations of the Single Judge of this Court in the case of ***Shashikant Thorat***. Similarly principles of parity are also applicable to the present Applicant as the co-accused Kartik Naik is granted bail pending his Appeal. The evidence against both of them is exactly the same, except the difference in the quantity of ganja found with both of them.

The Applicant was also found with non-commercial quantity of ganja. In this background, I am inclined to grant bail to the Applicant pending his Appeal.

14. Hence, the following order:

:: O R D E R ::

- i. During pendency and final disposal of the Criminal Appeal No.498 of 2025, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only), with one or two sureties in the like amount.
- ii. The Applicant shall report to the office of ANC Kandivali Unit, on first Monday of every month between 04.00 p.m. to 06.00 p.m. for a period of one year from today.
- iii. Interim Application stands disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
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(SARANG V. KOTWAL, J.)