

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

**INTERIM APPLICATION NO. 1517 OF 2025
IN
CRIMINAL APPEAL NO. 368 OF 2025**

Nanda Vilas Botre

...Applicant

V/s.

The State of Maharashtra

...Respondent

Adv. Zehra Charania a/w Mr. Ayaz Khan & Adv. Mallika Sharma,
Advocate for the Applicant.

Ms. R. D. Humane, APP for the Respondent No.2.

CORAM : N.R. BORKAR, J.
DATE : 22.08.2025.

P.C. :

1. By this application, the applicant is seeking suspension of sentence and grant of bail during the pendency of the Criminal Appeal No. 368 of 2025 filed by her against the judgment and order dated 04.03.2025 passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, in Special Case No. 110 of 2024, by which the learned Additional Sessions Judge has convicted the applicant for offences punishable under Section 8(c) read with 20(b)(ii) & 29 of the Narcotic Drugs and Psychotropic Substances Act and sentenced her to suffer rigorous imprisonment for 5 years.

2. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

3. The learned counsel for the applicant submits that the search of the gunny bag, in which alleged Ganja was found, was taken by PW-6 lady police constable Khurhe. It is submitted that in terms of Section 42 of the NDPS Act, constables are not authorized to take search. The learned counsel submits that PW-4 ASI Pradip Shelar has admitted the said fact, however, the trial Court has recorded the finding that there is nothing to show that the search was taken by PW-6. The learned counsel further submits that out of sentence of five years, the applicant has already undergone more than one year. It is submitted that this Court has already admitted the appeal and considering the pendency of the criminal appeals, the present appeal is not likely to be taken up for final hearing.

4. On the other hand, the learned APP for the respondent-State submits that the applicant is convicted of a serious offence under the NDPS Act. It is further submitted that the applicant is involved in two more crimes of a similar nature. The learned APP submits

that if the applicant is released on bail, the possibility of her again committing similar crimes cannot be ruled out. It is submitted that considering the said facts, the sentence may not be suspended and the applicant may not be released on bail.

5. I have perused the deposition of PW-4, A.S.I. Pradip Shelar. *Prima facie*, there appears to be substance in the submission of the learned counsel for the applicant about violation of Section 42 of the NDPS Act. Apart from it, considering the pendency of the criminal appeals, the present appeal is not likely to be taken up for final hearing in the near future. Considering the overall facts and circumstances, I am inclined to suspend the sentence and release the applicant on bail. In the result, the following order is passed:

ORDER

- a] The Application is allowed.
- b] The substantive sentence imposed by the trial Court is hereby suspended and the Applicant be released on bail on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

c] The Applicant shall attend the concerned police station once in a month, i.e., on first Saturday between 11:00 am to 2:00 pm, during the pendency of the present appeal.

d] The Applicant shall not commit any other crime.

e] Liberty is granted to the prosecution to file an application for cancellation of bail if the applicant commits breach of the any of the above conditions.

f] The application is disposed of in the aforesaid terms.

[N.R.BORKAR, J.]