



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.64 OF 2025

(Navnath Baban Raut (In Jail) Vs. State of Maharashtra thr. PSO Police Station
Pinjar, Taluka Barshitakli, District Akola)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. A. S. Londhe, Advocate for Applicant.
Ms. Swati V. Kolhe, APP for Non-Applciant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 24th APRIL, 2025.

1. Heard.
2. The applicant came to be arrested on 14.04.2024 in connection with Crime No.112/2024 registered with Police Station Pinjar, Tahsil Barshitakli, District Akola for the offences punishable under Sections 8(c), 20(b)(ii), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'the NDPS Act').
3. The crime is registered on the basis of report lodged by Police Head Constable Namdeo Mahadev More on an allegation that on 30.03.2024 he has received an information from the Police Patil to the effect that a plastic bag emitting strong sour smell is found near the pond. He informed that he has obtained the written permission from his superior and directed the Police Head Constable to reach the spot. Thereafter, in presence of the *panchas*, he

seized the said packet and the involvement of two co-accused namely Santosh Gajanan Kamble and Digambar Maroti Zinge was revealed. They are taken into custody. After following due process, the samples were obtained in presence of *panchas*. During investigation, it revealed to the Investigating Officer that the present applicant has sold 5 Kg. 500 grams contraband articles to the co-accused Balkrushna Bhaurao Tople and therefore, he was arraigned as an accused.

4. Learned counsel for the applicant submitted that even accepting the allegation as it is, it is intermediate quantity and not a commercial quantity therefore, the rigour under Section 37 of the NDPS Act will not attract. He submitted there are no criminal antecedents against the present applicant. On the contrary, except the statement of the co-accused there is nothing on record to show that present applicant has sold the said contraband to the co-accused. Nothing is seized from the present applicant. In view of that, the further incarceration of the present applicant is not required.

5. Learned APP strongly opposed the said application and submitted that in the contention of the present applicant and the other co-accused the commercial quantity are found out of which 5 Kg and 500 grams is sold by the present applicant to the co-accused. The statement of the co-accused recorded under Section 67 of the NDPS Act sufficiently shows the involvement of the present applicant. In view of that, the application deserves to be rejected.

6. After hearing the learned counsel for the applicant and learned APP for the State, perused the entire investigation papers. Admittedly, the present applicant was not found along with the co-accused in whose possession the contraband of 19 Kg. and 350 grams were found. What is alleged against the present applicant that he has sold the 5 kg 500 grams to the co-accused Balkrushna. Except the statement of the co-accused there is no material to show that the present applicant has sold the same. Thus, considering the intermediate quantity which is sold by the present applicant to the co-accused and except the statement of the co-accused there is no other material rigour Section 37 of the NDPS Act will not attract. On perusal of the investigation papers, it reveals that the investigation is practically complected as the charge-sheet is filed. There are no criminal antecedents against the present applicant. Considering all these aspects, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant – Navnath Baban Raut shall be released on bail in connection with Crime No.112/2024 registered with Police Station, Pinjar, District Akola for the offences punishable under Sections 8(c), 20(b)(ii), 20(c) and 29 of the

Narcotic Drugs and Psychotropic Substances Act, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

- (iii) The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The applicant shall not indulge himself in similar type of the activities.
- (vi) On contravention of any condition imposed, the bail granted to the applicant deserves to be cancelled.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)