



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

CRIMINAL APPLICATION (BA) NO.168 OF 2025

(Narendra @ Pappu @ Narender s/o Rajesh Chand Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.D. Chande, Advocate for the applicant.
Ms S. Kolhe, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MARCH 18, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 24/03/2023 in connection with Crime No.315/2023 registered with Police Station Nagpur Railway, District Nagpur for the offences punishable under Sections 468 and 471 of the Indian Penal Code and Sections 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The crime is registered on the basis of report lodged by Sachin Shamshersingh Dalal who was working at Railway Police Force, Nagpur as Sub-Inspector. On 19.03.2023 when he was on patrolling duty he received a secret information, and therefore, he checked the AC coach of Andhra Pradesh Express. The co-accused Mukeshkumar S/o Mehtab Singh was sitting. The bags were kept underneath his Berth and the sniffer of railway Police came near said accused due to which the bags of accused were checked and he was found in possession of contraband article Ganja. After checking his railway ticket,

it was found that he was travelling from Vishakhapatnam to New Delhi. After enquiry with him the name of the present applicant is also revealed. After following the due process the accused was arrested, the samples were drawn and the contraband articles were also seized. On the basis of the said report, police have registered the crime against the present applicant as well as the other co-accused.

3. Learned Counsel for the applicant submitted that nothing was seized from the possession of the present applicant. He is arrested merely on the basis of the statement of the co-accused which is not admissible. The CCTV footage panchnama and the statement of the Hotel Manager is also not sufficient to show the involvement of the present applicant in the alleged offence. Moreover, there is delay in trial, and therefore, for all above these grounds the applicant deserves to be released on bail. In support of his contention he placed reliance on Chitta Biswas alias Subhas Vs. State of West Bengal [2020 SCC OnLine SC 1536], Nitish Adhikary alias Bapan Vs. State of West Bengal [2022 SCC OnLine SC 2068], Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) [2023 SCC OnLine SC 352] and Ankur Chaudhary Vs. State of Madhya Pradesh [2024 SCC OnLine SC 2730].

4. Learned APP strongly opposed the said application and invited my attention towards the statement of the Hotel Manager who has identified the present applicant as stayed along with the co-accused in a

hotel. She also invited my attention towards the CCTV footage panchnama which shows that the applicant and the other co-accused were seen together in a hotel holding bags along with them. Thus, the association of the present applicant with the co-accused is revealed, and therefore, the application of the present applicant deserves to be rejected. As regards the delay in trial she submitted that the charge is already framed and trial may commenced at any point of time, therefore, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that the involvement of the present applicant is on the basis of the statement of the co-accused. CCTV footage panchnama and the statement of the Hotel Manager, in which the applicant allegedly stayed. Thus, as far as the involvement of the present applicant is concerned, the evidence in the nature of circumstantial on which the prosecution has placed reliance on. The main ground raised by the present applicant is that there is a delay in trial. Therefore, the report of the District Judge and Special Judge is called which shows that as the accused was not produced the trial is not commenced. Moreover, the property is also not received and CA reports are yet to be received, and therefore, trial is not commenced. As far as the delay in trial is concerned it is dealt by the Hon'ble Apex Court in catena of decisions including the decisions which are mentioned above.

6. In the case of Mohd. Muslim alias Hussain (supra) the Hon'ble Apex Court has considered the bar under Section 37 of the NDPS Act and observed that :

“Negation of bail is the rule and its grant and exception under sub clause (ii) of clause (b) of Section 37(1). For granting the bail the court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences with which he is charged and further that he is not likely to commit any offence while on bail. It has further to be noticed that the conditions for granting the bail, specified in clause (b) of sub-section (1) of Section 37 are in addition to the limitations provided under the Code of Criminal Procedure or any other law for the time being in force regulating the grant of bail.”

7. The Hon'ble Apex Court further considered the framework of the NDPS Act, especially Section 37 and referred the judgment of Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India [(1994) 6 SCC 731], wherein the Hon'ble Apex Court observed as follows:

“On account of the strict language of the said provision very few persons accused of certain offences under the Act could secure bail. Now to refuse bail on the one hand and to delay trial of cases on the other is clearly unfair and unreasonable

and contrary to the spirit of Section 36(1) of the Act, Section 309 of the Code and Articles 14, 19 and 21 of the Constitution. We are conscious of the statutory provision finding place in Section 37 of the Act prescribing the conditions which have to be satisfied before a person accused of an offence under the Act can be released. Indeed we have adverted to this section in the earlier part of the judgment. We have also kept in mind the interpretation placed on a similar provision in Section 20 of the TADA Act by the Constitution Bench in Kartar Singh v. State of Punjab [(1994) 3 SCC 569]. Despite this provision, we have directed as above mainly at the call of Article 21 as the right to speedy trial may even require in some cases quashing of a criminal proceeding altogether, as held by a Constitution Bench of this Court in A.R. Antulay v. R.S. Nayak [(1992) 1 SCC 225], release on bail, which can be taken to be embedded in the right of speedy trial, may, in some cases be the demand of Article 21. As we have not felt inclined to accept the extreme submission of quashing the proceedings and setting free the accused whose trials have been delayed beyond reasonable time for reasons already alluded to, we have felt that deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of deprivation pending trial becomes unduly

long, the fairness assured by Article 21 would receive a jolt. It is because of this that we have felt that after the accused persons have suffered imprisonment which is half of the maximum punishment provided for the offence, any further deprivation of personal liberty would be violative of the fundamental right visualised by Article 21, which has to be telescoped with the right guaranteed by Article 14 which also promises justness, fairness and reasonableness in procedural matters.”

8. By referring the another judgment in ***Union of India Vs. K.A. Najeeb [(2021) 2 SCR 443]***, wherein the Hon’ble Apex Court observed as under:

“12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 (“the NDPS Act”) which too have somewhat rigorous conditions for grant of bail, this Court in Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252] , Babba v. State of Maharashtra, (2005) 11 SCC 569 and Umarmia v. State of Gujarat, (2017) 2 SCC 731 enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.”

9. Thus, by referring the above said judgment it is held that the courts therefore, have to be sensitive to these aspects in the event of an acquittal, the loss to the accused is irreparable, and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily and released the accused on bail.

10. In view of the observation of the Hon'ble Apex Court in the above cases, the present applicant who is behind the bar from 24/03/2023 though charge is framed, trial is not commenced and it is difficult to ascertain as to the period required for conclusion of the trial, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) The applicant - Narendra @ Pappu @ Narender s/o Rajesh Chand in connection with Crime No.315/2023 registered with Police Station Nagpur Railway, District Nagpur for the offences punishable under Sections 468 and 471 of the Indian Penal Code and Sections 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail, on executing PR. Bond in the sum of Rs.1,00,000/- with one solvent surety in the like amount.

(iii) The applicant shall furnish the local surety for the satisfaction of the Court.

(iv) The applicant shall attend the concerned police station i.e. Nagpur Railway police station twice in a month i.e. 1st and 15th day of every month till culmination of the trial.

(v) The applicant shall furnish his detailed address with address proof and names of his two relatives along with the address proof, before the investigating agency.

(vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(vii) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

11. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)