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903 appp 1027-2025

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

CRIMINAL APPLICATION (APPP) NO. 1027 OF 2025
IN
CRIMINAL APPLICATION (BA) NO. 940 OF 2024

Surbhi D/o Raju Soni

Vs.

State of Maharashtra, Through PSO Railway, Police Station Gondia, Dist.
Gondia

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

Court's or Judge's orders

Mr. M.V. Rai, Advocate for applicant.
Mr. A.J. Gohokar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/06/2025

1. The applicant was released on bail by order dated 27/11/2024 for a temporary period of six months. She is arraigned as an accused in Crime No. 92/2024 registered with the non-applicant Police Station for the offences under Section 20 (b)(ii), 29 and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (the NDPS Act).

2. The crime was registered as the Gondia Railway Security Force conducted a raid in Train No. 08327 (sambalpur-Pune Express) and during raid, in Coach No. B-3, beneath the Seat Nos. 17 to 21, contraband "Ganja" was recovered from five persons including the applicant. As far as applicant is

concerned, the contraband "Ganja" weight 7.061 kilograms, from the bag was recovered in presence of panchas and therefore she was arrested. Considering that she was pregnant of seven months, her bail application was considered and therefore, she was released on bail for a limited period.

3. Learned Counsel for the applicant submitted that recently on 06/12/2024, she has delivered a child. Now the child is approximately of six months. There is nobody to look after the child and the atmosphere of the jail would not be proper for the maintenance of the child, for that purpose she be released on bail for a temporary period.

4. Learned APP strongly opposed the said application and submitted that considering the involvement of the present applicant in a grievous offence the prayer for grant of temporary deserves to be rejected.

5. It is true that the child of the applicant can be maintained in the jail atmosphere, however, admittedly the jail atmosphere would not be proper and healthy for the newly born child and therefore, human considerations are required. The said aspect is considered in the case of **R.D. Upadhya Vs. State of A.P. and ors, reported in (2007)15 SCC 337**, wherein, the Hon'ble Apex Court considered plight of children staying in jail with their mothers and issued directions as far as child birth in prison is concerned, which are as follows :

"(a) As far as possible and provided she has a suitable option, arrangements for temporary release/parole (or suspended sentence in case of minor and casual offender) should be made to enable an expectant prisoner to have her delivery outside the prison. Only exceptional cases constituting high security risk or cases of equivalent grave descriptions can be denied this facility;

(b) Births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned, and

(c) As far as circumstances permit, all facilities for the naming rites of children born in prison shall be extended."

6. Thus, in view of the observation of the Hon'ble Apex Court, wherein, in clear terms, Hon'ble Apex Court guided that as far as possible arrangements for temporary release parole should made to enable prisoners outside the prison. In the light of the above said facts, the prayer of the applicant for grant of bail deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- (1) The criminal application is allowed.
- (2) Applicant – Surbhi D/o Raju Soni, shall be released on temporary bail in Crime No. 92/2024 registered with the non-applicant/Police Station for

offences punishable under Sections 20 (b)(ii), 29, and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, for a period of six months from the date of her release from the prison on her executing a P.R. Bond of Rs.50,000/- with one or more sureties of the like amount to the satisfaction of the Court.

(3) The applicant shall not directly or indirectly make any inducement or threat or promise to any of witnesses acquainted with facts of the case so as to dissuade her from disclosing such facts to the court or any police officer and shall not tamper with the prosecution evidence.

(4) The applicant shall not indulge herself in similar type of activities.

(5) The applicant shall furnish her cell phone number(s) before the Investigating Officer as well as her address with her address proof.

The Criminal Application No.1027/2025, is hereby disposed of.

(URMILA JOSHI-PHALKE, J.)