



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 35 OF 2026

TUSHAR NIVRUTTI AGALE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. H. D. Deshmukh
APP for Respondents-State : Mr. B. B. Bhise

CORAM : SACHIN S. DESHMUKH, J.
Date : 29th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 24.12.2025 bearing Crime No. 507 of 2025 registered with Cantonment Chhavani Police Station, Dist. Chhatrapati Sambhajanagar for the offences punishable under Sections 22(a), 8(c), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 alongwith Sections 18(c) and 27 of the Drugs and Cosmetics Act and Sections 3/25 of the Indian Arms Act.

2. The case of the prosecution is that at midnight on 23.12.2025, the applicant was traveling in a four-wheeler with Registration No. MH-20-FU-0615. The applicant was driving the

said vehicle, owned by Bhausahab Kalunkhe, and was accompanied by two other passengers, had boarded the vehicle at Nagar Naka, Chhatrapati Sambhajanagar. The vehicle was subsequently intercepted on the flyover on the road between Nagar Naka and Pandharpur. During the search, a pistol was recovered along with an alleged contraband article weighing a "small quantity." Additionally, cash amounts of Rs. 803/- and Rs. 5,000/- were found in the vehicle. Consequently, a First Information Report (FIR) was lodged against the applicant.

3. The learned counsel for applicant submits that the alleged complaint does not disclose any active role to implicate the applicant. There is no evidence in respect of recovery, possession or transfer of contraband article from the applicant. The applicant a driver by profession and was not in conscious possession of the contraband. As such, further incarceration of the applicant is unjustified. Hence, prayed to allow the application.

4. Per contra, the learned APP opposed the application, submitting that the offence is serious in nature and that the applicant is directly involved in transporting the contraband. It is further submitted that if the applicant is enlarged on bail, there is

every possibility of him tampering with the prosecution evidence or repeating the crime. Hence, prayed that the application be rejected.

5. Upon considering the submission of both the sides and perusing the material on record, the applicant was driving a vehicle owned by another person (Bhausahab Kalunkhe) and had boarded passengers at a public transit point (Nagar Naka). Therefore, it cannot be presumed to have knowledge of contraband carried by passengers. Since the contraband was found with passengers, there is a prima facie case that the applicant may lack the "conscious possession".

6. Moreover, as the contraband which is a small quantity and cash (Rs. 803/- and Rs. 5,000/-) have already been seized and are in the custody of the prosecution, there is no possibility of the applicant tampering with the physical evidence. Furthermore, most prosecution witnesses are official/police personnel, who are not easily susceptible to being influenced by the applicant.

7. As such, further incarceration of the applicant as an under-trial prisoner, in the circumstances of the case, does not

seem to be either warranted or justified. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

8. Keeping in view the peculiar facts and circumstances of the case, the applicant's right to liberty needs to be upheld by imposing stringent conditions. The learned APP's apprehension about tampering with the prosecution evidence can be adequately taken care of by imposing certain stringent conditions. In that view of the matter, the applicant deserves to be released on bail.

9. Hence, the following order:

ORDER

- (I) Application is **allowed**.
- (II) Applicant – Tushar Nivrutti Agale be released on regular bail on furnishing P.R. bond of Rs. 50,000/- (Fifty Thousand Only) with one or two local solvent sureties in the like amount, in Crime No. 507 of 2025 registered with Cantonment Chhavani Police Station, Dist. Chhatrapati Sambhajanagar for the offences punishable under Sections 22(a), 8(c), 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 alongwith Sections 18(c) and 27 of the Drugs and Cosmetics Act and Sections 3/25 of the Indian Arms Act, on the following conditions :-

- (a) The applicant shall attend each and every date of the Trial Court unless exempted by the Trial Court.
 - (b) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.
 - (c) The applicant shall submit his Aadhar and Pan Card to the Investigation Officer and detailed addresses and phone numbers of applicant and two of the near relatives.
 - (d) Breach of any of the conditions by the applicants would entail the cancellation of the bail.
- (III) Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi