



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 123 OF 2026

Indrajitsing Alias Mitu Ranjitsing Rathod

....Applicant

VERSUS

The State Of Maharashtra And Another

.....Respondent

.....
Advocate for Applicant : Mr. Salunke Sudarshan J
APP for Respondents: Mrs. Pratibha J. Bharad.

CORAM : MEHROZ K. PATHAN, J.

DATE : 23rd JANUARY, 2026.

P.C. :-

1. The applicant has approached this Court seeking anticipatory bail in connection with crime No. 0022 of 2025 registered with Tamalwadi Police Station, District, Dharashiv for the offences under Section 8-C, 21-B, 27 and 29 of the N.D.P.S. Act.

2. At the outset, learned APP submits that the present application is a successive bail application for anticipatory bail filed by the applicant, whose earlier bail application bearing A.B.A. No. 956 of 2025 was disposed of as withdrawn, vide order dated 7.11.2025, as this Court was not inclined to grant anticipatory bail to the present applicant. The applicant has failed to make out a case of change of circumstance for entertaining the present successive bail application. The application for anticipatory bail application may, therefore, be rejected.

3. The learned APP Mrs. Bharad relies upon the judgments of the Honourable Supreme Court in following cases too substantiate her contention :-

[i] **Virupakshappa Gouda and another vs. State of Karnataka and another** reported in (2017) 5 SCC 406,

[ii] **Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav and another** (2005)2 SCC 42,

[iii] **G.R. Ananda Babu vs. State of Tamil Nadu and another** (2021) 16 SCC 725.

[iv] **Ganesh Raj vs. State of Rajasthan and others**, 2005 SCC Online Raj. 319

[v] **State of Maharashtra vs. Gaptain Buddhikota Subha Rao**, 1989 Supp(2) SCC 605.

4. The learned APP submits that there is no prohibition in filing the successive bail application after rejection of his earlier bail application, however, the only condition is that there should be a change of circumstance. It is further submitted that the change of circumstances should be substantial in nature and not merely cosmetic. She further submits that subsequent filing of charge sheet does not amount to change of circumstance and as such, the successive application for anticipatory bail may not be entertained.

5. As against this, the learned counsel for the applicant submits that there is a change of circumstance after the earlier application for anticipatory bail came to be withdrawn, vide order dated 7.11.2025. The prosecution has filed a charge sheet before the learned trial court and as such, there is a change of circumstance and therefore, the present successive bail application for anticipatory bail is maintainable and may be entertained.

6. After having gone through the earlier order dated 7.11.2025 passed in A.B.A. No. 956 of 2025, it can be seen that this Court has shown dis-inclination to grant anticipatory bail to the present applicant, taking into consideration the gravity of the offence and the criminal antecedents of the applicant. Moreover the charge sheet was already filed the prosecution and case is registered as Special Case No. 36/2025 on 16/4/2025. The earlier Application was decided on 7/11/2025.

7. On merits the learned counsel for the applicant further submits that, 14 accused persons in all are arrested out of 36 accused persons involved in the present crime, which involves illegal possession, transportation and sale of Mephadrone drug. The applicant is arrayed as accused No.7 only on the statement of co-accused. There is no evidence to connect the present applicant in the said crime. Even, the vehicle which is seized i.e. Hyundai Accent Car bearing No. MH-25/R-5598 belongs to accused Laxman Gaikwad and not the present applicant. The applicant is a resident of Naldurga and had called accused Sandip Rathod for some work. However, on the basis of CDR and SDR of applicant making phone calls to accused Sandip Rathod, the applicant is arrayed as an accused in a serious crime of transportation of narcotic drugs. There is hardly any evidence to connect the applicant with the present crime and hence, the applicant may be released on anticipatory bail.

8. As against this, the learned APP vehemently opposes the application on the ground that the applicant was engaged in purchase and sale of Mephadrone drug. There are CDR and SDR of mobile phone numbers showing contract of the applicant with the other accused persons. The other accused persons are involved in sale of narcotic drugs in the city of Tuljapur and nearby rural areas. The accused Nos. 1 to 3

were in contact with the applicant since 7 to 8 years and were running business of sale of the drugs in the city of Tuljapur. The applicant is having 6 crimes registered against him bearing Crime No. 467 of 2023, Crime No. 341 of 2023, Crime No. 378 of 2028 and 4 of 2017 are all registered under various sections of the IPC at Naldurga Police station. The offences are serious in nature. Some of them are punishable with life imprisonment. Earlier, offence under the NDPS Act is registered against the applicant at Tuljapur Police Station, bearing Crime No. 217 of 2017 for the offence punishable under Sections 20(B) and 29 of the NDPS Act. The total quantity of drugs involved in the present crime is more than 50 Grams. 43 + 2 grams of contraband are seized on the spot. 4 grams of contraband was seized from accused No.13 Sanjay Chavan, 6 grams of contraband was seized from accused No. 14 Ruturaj Gade, 6 grams of contraband was seized from accused No.16 Sanket Shinde. Thus, the total quantity of contraband seized is 61 grams, which is more than the commercial quantity as described in the NDPS Act i.e. 50 grams for Mephadrone. Hence, the rigors of Section 37 of the NDPS Act would apply in the present case. As such, the application may be rejected.

9. I have gone through the charge sheet made available by learned APP. Perusal of the charge sheet filed by the prosecution would show that upon receiving the secret information that drugs were being transported in a vehicle, a trap was laid and one Hyundai Accent Model of dark blue colour which was travelling from Solapur to Tuljapur was intercepted. Three persons sitting in the car gave evasive answers and, therefore, upon suspicion the entire car was searched and it was found that 43 grams of *MEPHADRONE* drug was seized from all the 3 accused, i.e. Amit Argade, Yuvraj Dalvi and Sandip Rathod and the FIR bearing No. 22 of 2025 was registered at Tamalwadi Police Station on 15.2.2025. Perusal of the charge sheet would show that accused Santosh Khot was

arrested by the prosecution and, thereafter, his statement was recorded, in which he disclosed the name of the present applicant alongwith other co-accused Swaraj @ Pinu Sachin Telang. The statement of Laxman Gaikwad recorded under Section 183 of the BNSS would show that accused Mitu Thakur was also using the said vehicle i.e. Hyundai Assent bearing No. MH-25/ R-5598, as he has invested Rs. 1.5 Lakhs at the time of purchase of the said vehicle. During the investigation, it is transpired that applicant is having mobile contacts with the other accused persons involved in the crime from the Tuljapur and rural areas. From last 7 to 8 years, the applicant is in the business of drugs and has purchased various properties out of the proceeds of the crime. The custodial interrogation of the applicant therefore appears to be necessary from the record. Though there are 35 accused identified by the prosecution in the present crime, 21 accused are still shown to be absconding. The applicant, if released on bail, may assist the other absconding accused into the subsequent offences under the NDPS Act. There are CDRs and message exchange between the applicant and other accused persons, which shows the involvement of the applicant in the present crime. Moreover, as there is already one offence registered against the applicant and the contraband seized is more than the commercial quantify under the NDPS Act, the rigors of Section 37 of the NDPS Act would apply.

10. A useful reference, at this stage, can be made to the decision of the Supreme Court in the case of **Muraleedharan Vs. State of Kerala reported in AIR 2001 SC 1699**, wherein, in paragraph No. 7 the Supreme Court has held as under:-

"7 The above provision is in pari materia with Section 37 of the Narcotic Drugs and Psychotropic Substances Act. This Court has held, time and again, that no person who is involved in an offence under that Act shall be released on bail in contravention of the conditions laid down in the said

Section. (vide Union of India vs. Ram Samujh (1999) (9) SCC 429. If the position is thus in regard to an accused even after arrest, it is incomprehensible how the position would be less when he approaches the Court for pre-arrest bail knowing that he would also be implicated as an accused. Custodial interrogation of such accused is indispensably necessary for the investigating agency to unearth all the links involved in the criminal conspiracies committed by the persons which ultimately led to the capital tragedy."

11. In view of the ratio laid down by the Supreme Court, though an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail under NDPS Act is maintainable, it cannot be entertained mechanically, which would ultimately frustrate the mandate of law and the twin condition have to be satisfied as per section 37 of the NDPS Act, if the case involves commercial quantity.

12. Taking into consideration the evidence collected by the prosecution against the present applicant it cannot be said that the applicant is not prima facie involved in the offence under the NDPS Act., Further, taking into consideration the antecedents of the applicant, wherein, several other offences including the one under the NDPS Act, it cannot be inferred that the applicant would not indulge into identical offences under the NDPS Act. As such, the aforesaid twin conditions are not satisfied by the applicant. Moreover, the Honourable Supreme Court in the case of ***Virupakshappa Gouda and another vs. State of Karnataka and another reported in (2017) 5 SCC 406*** has held that merely filing of charge sheet would not amount to change of circumstance so as to entertain the successive bail application. The change of circumstance has to be substantial in nature and not merely cosmetic. Moreover the charge sheet was already filed by the prosecution and case is registered as Special case No. 36/2025 on 16/4/2025. When the earlier application

was decided on 7/11/2025. Thus, the applicant has failed to show any substantial change of circumstance after dismissal of his earlier application as withdrawn vide order dated 7.11.2025. I am therefore not inclined to exercise the discretion in favour of the applicant. The application is, therefore, devoid of any substance and merit and is hereby rejected.

[MEHROZ K. PATHAN]
JUDGE.

grt/-