

Amrut



**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.1 OF 2026**

MR. HINAGATA YASUJI,
PRESENTLY IN JUDICIAL
CUSTODY AT COLVALE GOA.

.... Applicant

Versus

STATE THROUGH THE PI AND ANR

...Respondents

Mr Sagar Dhargalkar, Advocate for the Applicant.

Mr Pravin Faldessai, Additional Public Prosecutor for the
Respondents.

CORAM: DR. NEELA GOKHALE, J.

DATED : 21st APRIL 2026

P.C.:

1. The Applicant seeks his release on bail in connection with FIR No.78/2022 dated 7th April, 2022, registered with the Anjuna Police Station, for the offence punishable under Sections 20(b)(ii)(A), 20(b)(ii)(C) of the NDPS Act, 1985.

2. The case of the prosecution in brief is that the Applicant was arrested on 7th April 2022 near La Viola Villa, Zor Waddo, Anjuna, Badez Goa. The police official at the concerned Police Station had received information that the Applicant was in possession of contraband. Hence, under the leadership of Ms Sneha Sawal, LPSI of Anjuna Police Station, a raid was conducted, and after following

due procedure detailed in the NDPS Act, the Applicant was searched, and illegal possession of 133 grams of Ganja and 1 kg of Charas was alleged to have been recovered from him.

3. Pursuant to the FIR being registered against him, the Applicant was arrested. The Applicant made an application before the Sessions Judge, North Goa, Mapusa. However, by order dated 9th July, 2025, his bail application was rejected. Hence, he is before this Court for his release on bail.

4. At the outset, Mr Sagar Dhargalkar, learned counsel appearing for the Applicant, states that the Applicant has suffered incarceration for as many as four years without conclusion of trial. He submits that the Applicant has been falsely implicated in the present crime and that, to date, only five of 15 witnesses have been examined before the Trial Court. He also submits that the quantity of Charas recovered from the Applicant is not even of commercial quantity. Hence, he submits that the Applicant be released on bail.

5. *On the contrary*, Mr Pravin Faldessai, learned Additional Public Prosecutor, states that five witnesses have already been examined and only 15 more witnesses remain to be examined. He submits that the quantity of contraband recovered from the Applicant is that of a commercial quantity. He also submits that the Applicant is a habitual offender and has two antecedents against

him. There is an NCB Crime No.1/2013 registered against him for an offence punishable under Section 21 and 25 of the NDPS Act, as well as Crime No.7/2014 registered against him for an offence punishable under Section 22(c), 20(b)(ii)(B) of the NDPS Act. He thus says that if the Applicant is released on bail, he is likely to repeat the said offence again.

6. Mr Dhargalkar, learned counsel for the Applicant, interjects and says that the Applicant has been acquitted in one of the cases.

7. Be that as it may, the Applicant has admittedly suffered four years of incarceration, and only five witnesses have been examined to date before the Trial Court, although the trial commenced on 20th January, 2025. I am of the view that prolonged incarceration militates against the most precious fundamental right guaranteed under Article 21 of the Constitution of India, and in such a situation, the conditional liberty must override the statutory embargo under Section 37 of the NDPS Act. Considering the pace of the trial, it is unlikely that the trial would conclude in the near foreseeable future. In these circumstances, I am inclined to enlarge the Applicant on bail and it is ordered as under:-

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- with one or two local

sureties in the like amount, to the satisfaction of the concerned Sessions Court;

ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iii) The Applicant is a Japanese National; he shall surrender his passport to the concerned Investigating Officer.

iv) The Applicant shall not leave the territorial jurisdiction of Goa without the permission of the Trial Court;

v) The Applicant shall also not leave India without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

8. The application is allowed on the above terms and is accordingly disposed of.

9. Needless to state that in case the Applicant is residing in India without a valid Visa, the concerned Authorities are at liberty to initiate appropriate proceedings against him as per law.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application, and the learned Trial Judge is to decide the case on its own merits, uninfluenced by the observations made herein.

DR. NEELA GOKHALE, J