Sufiyan Syed – PA

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2078 OF 2025

Sunny Arun Pagare .. Applicant
Versus
State of Maharashtra .. Respondent

.....

- Mr. Taraq Sayed a/w Ms. Ashwini A., Ms. Anish Pereira, Mr. Aryan K. and Adv. Devashish Dhanjode, Advocates for the Applicant.
- Ms. S. G. Talhar, APP for the Respondent-State.
- PSI, Mr. Sunil Bidkar, Nashik Road Police Station is present.

.....

CORAM : MILIND N. JADHAV, J.
DATE : AUGUST 19, 2026

P. C.:

1. Heard Mr. Sayed, learned Advocate for Applicant and Ms. Talhar, learned APP for Respondent-State.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.425 of 2023 registered with Nashik Road Police Station for offences punishable under Sections 8(c), 22(c), 25, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. This matter was heard fully yesterday and today it was kept for submissions and response of the learned APP on taking further instructions with regard to the questions raised by the Court *qua* the arrest of the Applicant and more specifically with regard to the three

seizure panchanamas *qua* the Applicant which were carried out by the prosecution on 22.10.2023, 24.10.2023 and 26.10.2023.

4. With regard to the case of the prosecution of having recovered 52.5 kg MD, 2.11 Kg MD and 6.5 Kg MD from the Applicant. These three statements are appended at Page Nos.269, 307 and 428 and with the able assistance of Mr. Sayed and equally the learned Prosecutor, I have perused the same.

5. The prosecution has apprehended atleast 23 persons as Accused in the present crime out of which seven are absconding or wanted whereas the rest of them have been apprehended. Six out of the total Accused persons who are apprehended have been enlarged on bail. Case of the Applicant is primarily on the issue of recovery not been in consonance with the statutory provisions of law.

6. Mr. Sayed has persuaded the Court to consider that the first recovery attributed to the Applicant vide the seizure panchanama appended at Page No.269 is rendered *prima-facie* doubtful. He has referred to and relied upon the decision rather observations of this Court while determining Bail Application No. 4108 of 2024 in the case of another co-accused who has been enlarged on bail wherein there is a categorical observation that the timings of the panchanama carried out by the prosecution team virtually overlaps and therefore the same

prosecution team cannot be considered to have remained present at more than two different places for carrying out the seizure panchanama which in any event under the statutory provisions is an elaborate exercise.

7. Ms. Talhar on taking instructions and going through the papers has however argued that there is distinction and difference of half an hour that should be considered by the Court and more specifically so in view of the humongous recovery made *qua* the present Applicant in the first instance itself.

8. I have considered the submissions advanced by Ms. Talhar but in view of the discrepancy which has been pointed out and of which cognizance has been already taken by this Court in a judicial order, I am unable to accept the same. Secondly, Mr. Sayed would argue that after two days a second recovery has been shown *qua* the Applicant but it is shown from the premises of a third party lady which has virtually no nexus whatsoever with the Applicant. There is no documentary evidence placed on record to that effect to substantiate the prosecution case save and except the statement of lady who was residing in the said premises who has contended that she had some nexus with regard to a leave and license agreement but on which no documentary evidence is gathered.

9. Next she would argue that the third recovery attributed to the Applicant on the basis of memorandum signed by the Applicant under Section 27 of the Indian Evidence Act, 1873 and if perused it is seen that it is not shown therein that the Applicant had any conscious knowledge of the third contraband recovered two days thereafter. He would also submit that the premises with regard to the third recovery is a gala which belongs to a third party call Ankush Chavan.

10. He would also draw my attention to the statement recorded on page No. 448 which refers to the company called Swami Samarth Chemicals of which even otherwise according to the prosecution some of the accused persons were involved in manufacturing contraband/drug allegedly. At this stage, what is argued by the learned Advocate for the Applicant *prima-facie* deserves consideration and more specifically so when there is no specific answer forthcoming from the prosecution.

11. The Applicant is indicted in an NDPS offence and has been in incarceration for the past more than 2 years and 9 months. Ignominy of the trial been commenced and on concluded is writ large and the Applicant cannot be kept in incarceration forever.

12. Even otherwise, considering the parity as also the aforesaid reasons. Applicant is enlarged on bail on the following terms and conditions :

(i) Applicant is directed to be immediately released from prison in connection with Crime No. 425 of 2025;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one surety of the like amount;

(iii) Applicant shall report to the Investigating Officer at concerned Police Station once every month on the first Monday of the month between 10:00 a.m. to 12:00 p.m.;

(iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for revocation of this order;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;

(viiii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and

(ix) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

13. These observations made only for the purpose of granting bail to the Applicant and shall not be construed as any decision on merits and the trial shall be progressed on its own merits in accordance with law and uninfluenced by the observations made in this order.

14. Bail Application is allowed and disposed of in the above terms.

Sufiyan Syed – PA

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT

Digitally signed by HARSHADA HANUMANT SAWANT
Date: 2026.08.19 19:52:19 +0530