

Shubhada S Kadam

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.4108 OF 2024**

Arjun Suresh PiwalApplicant
Versus
The State of MaharashtraRespondent

**with
CRIMINAL BAIL APPLICATION NO.4236 OF 2024**

Manoj @ Govinda @ Manna Bharat GangurdeApplicant
Versus
The State of MaharashtraRespondent

Ms. Sana Raees Khan along with Mr. Palak Kasliwal, Advocate for Applicant in Criminal Bail Application No.4108 of 2024.

Ms. Pushpa Ganediwala with Ms. Anima Mishra, Mr. Anuj Singh, Mr. Vinod Patil, Ms. Priyanka P., Ms. Ritu Singh, Ms. Anshu Agarwal, Mr. Pradhyumna Agarwal, Mr. Ishan Agarwal, Mr. Ankit Rathod i/b. M/s. Dhaara Legal, Advocates for the Applicant in Criminal Bail Application No.4236 of 2024.

Mr. Prashant P. Jadhav, APP for Respondent-State.

API-Madhumati Shinde, Pimpri Police Station, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th MARCH, 2026.

P.C. :

1. These two applications are out of the same crime, hence, I am deciding both applications by this common order.

2. By these applications, the applicants are seeking regular bail in Crime No.425 of 2023 registered with Nashik Road Police Station, District Nashik, for the offences punishable under Sections 8(c), 22(c), 25, 27(A),

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29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”).

3. It is prosecution’s case that on 7th September 2023, on receipt of secret information, a trap was laid and co-accused Ganesh Sharma was apprehended by the police. From his possession, the police found 12.5 grams of Medorphin (MD), hence, an offence was registered against him. The statement of Ganesh Sharma was recorded on 13th September 2023. He stated that he used to obtain MD for sale from co-accused Govind Sable and Akshay Naikwade. Accused No.2-Govind Sable disclosed the name of the present applicant-Arjun Piwal and Accused No.18- Amol Wagh. On 18 October 2023, the police arrested the applicant -Arjun Piwal along with applicant – Manoj Gangurde. On 22nd October 2023, permission was obtained from the Assistant Police Commissioner, Crime Branch, Nashik for the house search of both the applicants. On the same day, the police conducted the house search of the applicant – Arjun Piwal and found 58 grams of MD. In the house search of the applicant – Manoj Gangurde, the police found 6.5 grams of MD. It is further alleged that on 25th October 2023, on the say of the applicant Manoj Gangurde, the police recovered 1.20 kg of MD under Panchanama under Section 27 from the house of one-Jeetu Sarode.

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4. It is contention of learned counsel for both the applicants that there was no compliance of Section 42 of the NDPS before conducting the house search of the present applicants. Learned counsel further submitted that on 22nd October 2023, the police visited the houses of three accused persons, including the present applicants. The said house searches were made within a gap of 15 to 30 minutes, though the distance between the houses of the applicant and other accused is more than 30 minutes, which shows that the Panchanamas prepared by the police appear to be false and fabricated. It is further submitted that the applicants are behind bars for more than two and a half years, and there is no progress in the trial. No proper grounds of arrest were given to the applicants. The co-accused have been released on bail. Hence, requested to allow the applications. Learned counsel for the applicants relied on :

1. Smt. Najmunisha and Anr. versus The State of Gujarat, (2024 SCC Online 520)

2. State of Punjab Versus Balbir Singh (1994 (3) SCC 299)

5. It is contention of the learned APP that the applicants are habitual offenders and have antecedents. The police have arrested them on the say of co-accused. During the house search, commercial quantity of MD was found. The police followed proper procedure while preparing the Panchanamas. The permission was sought from the senior officers to

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conduct the house search, it shows there was compliance under Section 42 of the NDPS. Hence, requested to reject the applications.

6. I have heard all the learned counsel, perused charge sheet and documents produced on record. It appears from panchanamas that the police had taken the applicants in one vehicle for carrying out their house searches and on the same day, the police prepared three panchanamas. The first panchanama started at 1.30 pm and ended at 3.30 pm. The second panchanama started at 4.00 pm and ended at 5.30 pm and the 3rd panchanama started at 5.45 pm and ended at 7.15 pm. It appears from the record that the applicants and the other co-accused stay in different localities, yet the police prepared these panchanamas within a short gap of 30 minutes. Though it is alleged that as per the say of the applicant-Manoj Gangurde, the police recovered more than 1 kg of MD from the house of Jeetu Sarode, but the said panchanama was prepared five days after his arrest. Moreover, there is nothing on record to show that the said room belongs to the applicant-Manoj Gangurde. Panch witnesses in all these panchanamas are same. In panchanama, it is stated that police party started from police station with the applicants in their vehicle for taking house search of the applicants at 4.00 p.m. but in panchanama, the time of panchanama is mentioned as 4.00 pm to 5.30 pm. To prove these discrepancies, evidence is required but prima facie, it creates doubt about

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preparation of these panchanamas. The applicants are behind bars for more than two and a half years, and there is no progress in the trial. Considering these facts, I pass the following order.

ORDER

- (i) The applicants - Arjun Suresh Piwal and Manoj @ Govinda @ Manna Bharat Gangurde be enlarged on bail in Crime No.425 of 2023 registered with Nashik Road Police Station, District Nashik, on executing P.R.Bond in the sum of Rs.30,000/- each with one or two sureties in the like amount.
- (ii) The applicants shall attend the concerned police station as and when required.
- (iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

The applications are allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

8 All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)