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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3454 OF 2026

Pooja Lovepreet Lal

.. Applicant

Versus

Union of India

.. Respondent

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- Mr. Gaurav Sharma, Advocate for Applicant appointed through legal aid.
 - Mr. Rushikesh Munde, APP a/w. Ms. Shatabdi Netke, Advocate for Respondent.
 - Ms. Rajeshree V. Newton, APP for State.
 - Mr. Sandeep Chavan, Byculla Jail Jailer present.
 - Mr. Lovepreet Harmesh Lal, husband of Applicant present.
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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 28, 2026

P.C.:

1. Heard Mr. Sharma, learned Advocate for Applicant appointed through legal aid; Mr. Munde, learned SPP for Respondent and Ms. Newton, APP for State.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with DRI/MZU/C/INT-93/2025 registered with Directorate of Revenue Intelligence, Mumbai Zonal Unit for offences punishable under Sections 21(c), 23(c), 28, 29, 30, 35 and Section 54 read with Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short '**the said Act**').

3. Applicant is a woman having no antecedents but having indicted in offences punishable under the said Act wherein she has been caught with 6 kilograms of contraband-cocaine. After she was arrested, Applicant was granted interim bail for a period of three months to deliver the child. On 09.01.2026 she delivered a baby girl prematurely. The medical reports which is placed on record have been seen by me. Though this Court is not an expert in medicine but *prima facie* reading of the report clearly shows that the infant child which was born has a documented neo-natal history of respiratory distress and bronchopneumonia which requires prolonged NICU treatment. Such treatment was given to the infant but after three months the Applicant surrendered to the prison alongwith the child and since then she has been housed in prison alongwith her baby.

4. Mr. Munde would persuade me to take on record material, appended to be affidavit-in-reply dated 16.09.2026 and would contend that considering the rigors of Section 37 of the said Act which would be attracted in the present case, there is no reasonable ground to believe that the Applicant is not guilty of the alleged offence and, therefore, consideration of the Applicant's case on humanitarian grounds be rejected.

5. He would submit that every week the Applicant and her infant child is referred to the hospital for treatment and after having

been discharged from the hospital due to complications there is no recent medical history demonstrating a continuous illness to enable the Applicant to maintain the present Application.

6. Though there is a substantial case otherwise made out which can be gone into on merits, in the present scheme of things, I am inclined to consider the request made by the Applicant for grant of bail on humanitarian grounds for more than one reason. Applicant's indictment as can be seen is based on statements by witnesses and other accused persons about Applicant's involvement earlier but she has not been indicted in any antecedent offences earlier which *prima facie* satisfies one of the rigors of Section 37 of the said Act especially in the facts and circumstances of the present case where the Applicant is now required to provide care for her infant baby.

7. Mr. Munde would also submit that the Applicant is part of an international drug syndicate and has been a very trustworthy member of the said syndicate and has been an expert in drug smuggling which is *prima facie* seen from several witness statements taken recorded by the prosecution.

8. In so far as the present case is concerned, the same turns on its facts. The fact that the newborn infant is having a continuous illness is clearly seen on the basis of the infant having suffered a lower respiratory tract infection requiring medication and nebulization

continuously and therefore, in the month of July-2026 onwards the infant baby girl was admitted to hospital for breathlessness, fever and acute respiratory symptoms.

9. Considering that Applicant is woman and in the facts of the above case where she is required to provide acute care and support to the infant child and she herself is required to take care of her own physiological self which is *prima facie* seen from the medical report which is placed before me as also, she is required to have an extra medical diet.

10. The case of prosecution is that she will be regularly sent for follow-up to J.J. Hospital alongwith the infant child will be adhered to needs to be intervened by this Court. The medical reports which are *prima facie* placed before me, clearly bear out the status of the infant girl child which by any human consideration needs to be protected rather provided with proper medical care.

11. Though Mr. Munde would persuade me that she will be taken well care of in the jail barracks and the hospital, I am unable to the convince myself to the contrary. Mr. Munde has argued the matter to the extent of all submissions made in the affidavit-in- reply *qua* the rigours of Section 37 of the said Act. However, the issue of the Applicant re-offending herself especially when she is required to provide care and support for her infant girl child is considered in the

realm of welfare and development needs of children residing with incarcerated mothers, as opined by the Supreme Court in the case of *R.*

*D. Upadhyay vs. State of A.P.*¹.

12. Though it is true that the State is required to provide care within the prison and it may not be understood as creating an absolute right for the mother to be enlarged on bail much less in derogation of the statutory embargo under Section 37 of the said Act, it should all depend and boil down to the facts of each and every particular case which may not be alike.

13. In the present case where admittedly the health of the newborn infant is critical it would be more appropriate if the infant is brought up in the environs of the home and proper hospital care rather than jail especially when the infant is required to be repeatedly taken for medical checkups and care.

14. Needless to state that the anxiety expressed by the prosecution can be considered with appropriate, stringent conditions. In that view of the matter, the learned Sessions Court order dated 07.08.2026 denying bail on the basis of the jail report that proper medical facilities, regular checkups and nutritious food are provided for mothers and children in the prison and that they are referred to J.J. Hospital for further treatment as and when required may not be

¹ 2006 (3) SCC 422

applicable directly to the facts and circumstances of the Applicant before me, in view of the precarious condition of her infant daughter who is 8 months old and who requires medical attention. In that view of the matter, I am inclined to grant interim bail to the Applicant for a period of 8 months from today, on the following terms and conditions:

- (i) Applicant is directed to be immediately released from prison for a period of 8 months from today in connection with Crime No.DRI/ MZU/C/INT-93/2025;
- (ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one or two surety / sureties of the like amount;
- (iii) Applicant shall report to the Investigating Officer at the 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 she 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;
- (vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of her current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (viii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.
- (ix) Applicant shall surrender after the interim bail period is over in accordance with law.

15. It is clarified that the observations made in this order are limited for the purpose of granting interim Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

16. This Court appreciates the assistance rendered by Mr. Sharma, learned appointed Advocate through the legal aid. His fees be

paid by the High Court Legal Aid Services Authority as per rules on production of a server copy of this order and other compliances in accordance with the decision of this Court in the case of *Sanjyot Nitin Telharkar v. The State of Maharashtra & Anr.*² and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

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

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

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by HARSHADA
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Date: 2026.09.28
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² Judgment dated 25.09.2024 passed in Misc. Civil Application No.134 of 2024.