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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2492 OF 2015**

Narendra Shri Dharampal Goyal **... Petitioner**

Versus

Intelligence Officer, Narcotics Control Bureau **... Respondents**

Mr. Taraq Sayed i/by Ms. Sartaj Shaikh for the petitioner.

Ms. Rebecca Gonsalves for N.C.B.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 01, 2015**

P.C.

Admit. Heard forthwith.

2. Heard learned counsel for the petitioner and learned Special Prosecutor for NCB.

3. Perused the order dated 25th April, 2013 passed by the learned Special Judge granting bail to the applicant in the sum of Rs. 1 lac. I had also perused the recent orders passed by the learned Special Judge on 23rd June, 2015.

4. The applicant is aggrieved by the decision of the learned Special Judge of not releasing him from the custody. The whole confusion has arisen because the application for cancellation of bailable warrant was made on behalf of the applicant despite the fact that the applicant was in custody as he

was produced from Patiala Prison on production warrant issued by the Special Judge, Mumbai. In the circumstances, bailable warrant issued by the Special Judge should have been recalled. At this stage, learned Special Prosecutor Ms. Gonsalvis for NCB submits that the bailable warrant was never issued against the applicant. In either of the circumstances, it was not necessary for the learned Special Judge to pass the said order as the applicant was already in custody.

5. In the circumstances, it was the duty of the learned Special Judge to pass complete order as to whether the bail bonds of the applicant and his surety had been cancelled or forfeited and also clearly state in his order as to whether the applicant is in custody of Special Judge under NDPS Case No. 84 of 2010 @ 152 of 2009.

6. It is not clear from the order of the learned Special Judge as to whether he wanted to cancel the bail of the applicant or he wanted to initiate proceedings for forfeiture of bond of the applicant and his surety. If the learned Special Judge wanted to take any effective steps in this case, it was his duty to pass clear order indicating as to whether the bail of the applicant has been cancelled and as to whether he intends to initiate proceedings for forfeiture of bonds and imposing of penalty followed by forfeiture of bond on the applicant and his surety. The order passed by the learned Special Judge is silent on the relevant aspects and therefore, it is necessary for the learned Special Judge to pass a clear order as to (i) whether the order passed on 25th April, 2013 is in force, (ii) as to whether he has canceled the bail and (iii) as to whether he intends to initiate proceedings for imposition of penalty on the applicant and his surety after forfeiture of bonds. With these observations, present application stands disposed of with a direction to the

learned Special Judge to pass necessary orders on all the issues mentioned hereinabove within a period of eight days from the receipt of this order. The applicant is at liberty to move this court if aggrieved by the order of the learned Special Judge.

Learned Special Judge to act on authenticated copy of this order.

(JUDGE)