

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
REVISION APPLICATION NO.541 OF 2015

Shaikh Mohd Hussain Usman Gani	 Applicant
Vs.	
The State of Maharashtra	 Respondent

Mr. Ayaz Khan for the Applicant.
Ms Anamika Malhotra, APP, for the Respondent-State.

CORAM: A.V. NIRGUDE, J.

DATED: NOVEMBER 23, 2015

P.C:

1. The applicant challenges an order dated 6-11-2015, passed by the learned Special Judge under the NDPS Act, Greater Mumbai, seeking discharge in NDPS Special Case No.138 of 2015.

2. There were two accused in this case. Accused No.1 happens to be the applicant's wife. The prosecution alleged that accused No.1 was found possessing contraband on 14-2-2015 and thus she was caught red-handed. On being asked, she disclosed to the police that she received the contraband from her husband, the applicant herein. No sooner such a statement was

recorded, the applicant contemplated his arrest in this case and, therefore, he surrendered before the Court and thereafter investigation was completed and charge-sheet was filed against the applicant and his wife/accused No.1. There is no material collected against the applicant, which is reflected in the charge-sheet, showing that besides the statement of the co-accused the applicant has any complacency in this case. There is no material to indicate that the applicant and his wife/accused No.1 had conspired to transport, sell, etc., the contraband. On the face of it, there was no case for framing charge against the applicant. The learned Special Judge somehow thought that the investigation in this case was still going on. This was a statement made in the impugned order. This was apparently a factual error. The applicant deserves to be discharged. The application is allowed. The applicant stands discharged. The application accordingly stands disposed of.

(A.V. NIRGUDE, J.)