

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL APPLICATION NO. 629 OF 2016

The State of Maharashtra

...Applicant

VERSUS

Chukwu Alloy Emmanuel

...Respondent

.....
Shri S.N.Morampalle, A.P.P. for applicant/State
Shri A.P.Shejul, advocate for respondent sole
.....

WITH

CRIMINAL APPLICATION NO. 797 OF 2016

The State of Maharashtra

...Applicant

VERSUS

Gaurav @ Gopal Harish Sharma

...Respondent

.....
Shri S.N.Morampalle, A.P.P. for applicant/State
Shri R.V.Gore, advocate for respondent sole
.....

CORAM : INDIRA K.JAIN, J.

DATED : 28th April, 2016

ORDER :

By these applications, State of Maharashtra has
challenged the order, dated 29.12.2015 passed by the learned

Special Judge (NDPS), Aurangabad in Special Case No. 4 of 2015 releasing the accused on bail in default under Section 167 (2) of the Code of Criminal Procedure. Accused were arrested in Crime No. II-49 of 2015 registered at Chikalthana L.C.B. Aurangabad for the offences under Sections 8 (c), 21, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2] Heard Shri S.N.Morampalle, learned A.P.P. for applicant/State and Shri A.P.Shejul and Shri R.V.Gore, learned counsel for respondents. Perused impugned order.

3] It can be seen from the papers annexed with the charge sheet that incident took place on 13.9.2015. Final report was submitted on 7.11.2015 i.e. within sixty days from the date of arrest of applicants/accused. At the time of filing charge sheet Chemical Analyser's report was not placed on record. The said report was filed after the period of 60 days. Therefore, Trial Court held that charge sheet was not complete and provisions of 167 (2) of the Code of Criminal Procedure would be attracted.

4] Needless to state that the charge sheet contemplated under Section 173 (5) of the Code is a complete charge sheet so as to enable the Magistrate to take cognizance of the offence. In the present case charge sheet without the Chemical Analyser's report was not a complete charge sheet and so accused were entitled to be released on bail in view of the provisions of Section 167 (2) of the Code of Criminal Procedure. This Court finds no error in the impugned order. Hence the following order.

ORDER

(i) Criminal Application Nos. 629 and 797 of 2016 are dismissed.

(ii) The order of status quo passed on 2.2.2016 stands vacated.

[INDIRA K.JAIN, J.]

dbm/crap629.16