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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2401 OF 2016

Ramesh Suresh Soni	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mr. Rajendra S. Bidkar for the Applicant.
Ms. Veera Shinde, APP for the Respondent-State.
Mr. Ramesh Narayan Sawant, PSI, Malwani Police Station present.

CORAM : A.S. GADKARI, J.

DATE : 19th APRIL, 2017.

P. C. :

1. This is an application under Section 167(2) of the Code of Criminal Procedure for default bail.
2. The applicant is an accused in C. R. No. 82 of 2016 registered with Malwani Police Station, Mumbai under Sections 8(c) and 20 of the Narcotic Drugs and Psychotropic Substances Act. It is the allegation of the prosecution that the applicant was found in possession of approximately 2 kg. of charas i.e. commercial quantity of the contraband. The applicant was arrested on 03.04.2016 and was first produced before the concerned Magistrate on 04.04.2016. In view of the provisions of Section 36-A(4) of the NDPS Act, the period to complete the investigation and submit charge-sheet is of 180 days and the same came to an end on 30.09.2016. The record discloses that the applicant thereafter preferred an application under Section 167 (2) of the Code of Criminal Procedure for

bail before the Sessions Court on 03.10.2016. That, the Investigating Agency submitted charge-sheet on 07.10.2016. The learned Trial Court by its order dated 24.10.2016 rejected the application preferred by the applicant.

3. The chronology mentioned hereinabove clearly discloses that the Investigating Agency filed the charge-sheet on 07.10.2016 i.e. beyond the period of 180 days as contemplated under Section 36-A(4) of the NDPS Act. Mr. Laxman G. Shinde, Police Inspector, attached to Malwani Police Station, has filed an affidavit dated 20.03.2017 and in para 4 of the said affidavit has admitted the fact of filing of the charge-sheet on 07.10.2016. Thus, it is clear that on 30.09.2016 an indefeasible right has accrued in favour of the applicant and the applicant was entitled to be released on bail in default.

4. In view of the above, the application is allowed in terms of prayer clause (a).

Hence, the following order:

- (i) The applicant shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) Before his release from jail, the applicant shall provide the documents of his permanent residential address and also residential address from Mumbai to the Investigating Agency i.e. Malwani Police Station, Mumbai and also to the Trial

Court.

- (iii) After his release from jail, the applicant shall attend the Malwani Police Station on every first Monday of each month between 11.00 a.m. to 3.00 p.m. and shall mark his presence.
- (iv) The applicant shall also attend all the dates before the Trial Court.
- (v) Any two consecutive defaults will attract the cancellation of bail.
- (vi) The application is allowed in the aforesaid terms.

[A. S. GADKARI, J.]