

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.100 OF 2018
Bilal @ Salman A. Patel vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Ayaz Khan for the applicant.

Mr. A.A.Palkar, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 12th June, 2018

P.C.

1. This is an application under Section 439 of the Code of Criminal Procedure for bail in CR No.II- 8/2017 dated 10.1.2017 registered with CBD Police Station, Navi Mumbai under Section 8(c) read with 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to "NDPS Act").
2. Heard the learned counsel for the applicant and the learned A.P.P. Perused the charge sheet.
3. The prosecution case in brief is that, the first

informant Mr. Sachin B. Bhalerao, Police Naik attached to Crime Branch, Navi Mumbai on 10.1.2017 received confidential information from his secret informer that a person with specific description was arriving near Hotel Laxmi, CBD. Belapur for sale of psychotropic substance. The said fact was immediately informed to the Sr. Police Inspector and after completing the basic legal formalities a trap was laid. At about 5.50p.m. of 10.1.2017 a person with the specific description (applicant herein) arrived at the scene of offence. The informant identified his identity. The team of the investigating agency accosted the said person and in his personal search Mathamphetamine weighing about 53 grams was found. After completion of investigation the police have submitted charge sheet.

3. The record indicates that, appraisal as contemplated under Section 50 of the NDPS Act as given to the applicant was an incomplete and improper appraisal as the applicant was not appraised of his legal right that, he was also having right to be searched before the Magistrate. The panchanama effected after the search further mentions

that the Senior Inspector of Police even informed the applicant prior to search that he also is a Gazetted Officer. The appraisal in writing which is annexed at Page 93 to the application mentions that the applicant is having right to be searched before the Gazetted Officer and the said appraisal is silent about the right of applicant to be searched before the Magistrate.

4. In view thereof, it prima facie, appears that right of applicant as contemplated under Section 50 of the NDPS Act has been violated and the recovery of the alleged contraband made at the instance of the applicant becomes doubtful. In view of the decisions of the Supreme Court in the case State of Punjab vs. Baldev Singh reported in (1999) SCC 172 followed in the case of State of Rajasthan vs. Parmanand and anr. Reported in (2014) 2 SCC(Cri.) 563 the applicant is entitled to be released on bail.

Hence, the following order.

a) The applicant be released on bail in CR No.8 of 2017 dated 11.1.2017 registered with CBD Belapur Police Station, Navi Mumbai on his furnishing PR bond of

Rs.25,000/- with one or two solvent local sureties in the like amount.

b) Before his release from Jail, the applicant shall submit photo copies of the documents of his residence before the Investigating Agency.

c) After his release from Jail the applicant shall attend the office of Crime Branch, New Bombay on every first Monday between 11.00 a.m. and 1.00 p.m. initially for a period of six months and thereafter every first Monday of the month till the conclusion of trial.

d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)