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

BAIL APPLICATION NO.1645 OF 2017

Junaid Akhtar Qureshi

.....Applicant

V/s.

The State of Maharashtra

... Respondent

Ms. L. Chandka i/b Taraq Sayeed for applicant.

Ms. A.A. Takalkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 13th FEBRUARY 2018.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. 91 of 2016 registered with A.N.C Azad Maidan Police Station, Mumbai under Sections 8(c), r/w 22(b)(c) and 29 of the [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”).

2] Heard the learned Counsel for the appli-
cance and the learned APP. Perused the chargesheet.

3] The applicant is the accused No.1. It is the prosecution case that, on receipt of a confidential information a trap was led on 24.8.2016 and the applicant along with co-accused Sarfraz Hussain Qureshi were

accosted at the scene of offence. The appliant was found in possession of 65 grms of Mephedrone and Sarfraz was found in possession of 26 grams of Mephedrone. The applicant came to be arrested on 24.8.2016. After completion of investigation, the police have submitted chargesheet.

4] The record indicates that, in the panchanama itself the panch-witnesses have stated that the Police gave joint appraisal to the applicant and co-accused about their right under Section 50 of the NDPS Act.

The Supreme Court in the case of State of Rajasthan Vs. Parmanand & Anr, reported in (2014) 5 SCC 345, has held that, joint communication of the right available under Section 50(1) of the NDPS Act to the accused would frustrate the very purpose of Section 50. That the communication of the said right to the person who is about to be searched is not an empty formality and therefore prescribed procedurer has to be meticulously followed. It is further held that, the communication of the right has to be clear, unambiguous and individual.

The record indicates that, the Investigating Agency has not complied with the mandatory provisions of Section 50 of the NDPS Act in its proper perspective and in view of the above decision of the Supreme Court.

5] In view thereof, the applicant is entitled to be released on bail.

Hence the following Order:

(i) The applicant be released on bail in CR. No. 91 of 2016 registered with ANC Azad Maidan Police Sttion, on his furnishing PR bond of Rs.50,000/- with one or two solvent local sureties in the like amount.

(ii) After her release from jail, the applicant shall attend the concerned Police Station on every 1st Monday of the month between 10.00 a.m. to 1.00 p.m till the conclusion of trial.

(iii) Applicant shall also attend all dates before the Trial Court.

(iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)