



Investigating agency that the applicant is indulging in possessing and sale of psychotropic substance namely crystal ephedrine and methamphetamine. The applicant was apprehended by the Investigating agency and his house search was conducted . In the house search of the applicant 3-kgs. of Ephedrine 60-gms. of crystal powder of methamphetamine and 20 gms. of white colour crystal powder i.e. M.D. was found. By effecting panchanama dated 25.8.2016 the applicant came to be arrested and after completion of investigation the police have submitted charge sheet.

4. The learned counsel appearing for the applicant vehemently submitted that the room from where the said alleged contraband was seized by the police at the instance of the applicant is Room No.204 of Wasekar Niwas, Sanpada, New Bombay. That, the applicant was in fact residing in Room bearing No.203 in the said building. The landlord Shri. Dilip Wasekar by a leave and licence agreement dated 6.8.2016 granted licence of Room No. 203 to the applicant to reside therein. She submitted that

therefore the room where the police conducted the raid did not belong to the applicant, neither the applicant was having any ownership or dominion over the said premises. She further submitted that in the charge sheet the police have not explained as to how and when the said contraband weighing about 3-kgs., 60-grams and 20-grams was in fact weighed. She further submitted that Forensic Science Laboratory reports annexed to the charge sheet are silent about the percentage of the contraband in the said samples and the samples have been described differently at different places. She submitted that Forensic Science Laboratory has not given the correct percentage of the psychotropic substance seized by the police and the benefit of the same be given to the applicant. She further submitted that the applicant was arrested on 25.8.2016 and since then he is in Jail. There is no possibility of conclusion of trial in near future and therefore, the applicant be released on bail.

5. The learned Special PP and the learned APP appearing for the State vehemently opposed the

application.

6. The record indicates that, during the course of investigation of the present crime, when it was revealed that the applicant is one of the member of the cartel who was indulging into possession and sale of psychotropic substances, the police arrested the applicant on 25.8.2016 and thereafter the applicant pointed out the place of residence in furtherance of the panchanama recorded under Section 27 of the Evidence Act wherein the applicant disclosed the fact to the police that, he had concealed the psychotropic substances in Wasekar building and accordingly house search was conducted and after the applicant pointed out Room No.204 the same was opened by use of a duplicate key, as it was the say of the applicant that after his arrest he threw the original key to destroy the evidence. In the said room No.204, the alleged contraband was seized by the police. During the course of investigation it was revealed that, the applicant had kept the said contraband in room No.204 and after reaching the said place he pointed out the said room to the police.

Thus, prima facie it can be safely presumed that the applicant was also in possession of room No.204 apart from room No.203 . The learned Special PP at this juncture submitted that it was Room No.204 and not Room No.203 which was pointed out by the applicant to the police as the room wherein he had kept the said contraband. He further submitted that the mention of Room No.203 in the Leave and Licence Agreement is an error as the applicant was aware of the fact that, he was given Room No.204 and not Room No.203. As far as the contention of the applicant that, Forensic Science Laboratory report does not contain the percentage of contraband present in it is concerned, it is to be noted here that, in the absence of specific percentage of the chemical in the contraband, it can be safely presumed that the entire contraband was a psychotropic substance and there was no other chemical mixed in it and therefore, at this stage benefit of the same has to be given to the prosecution. It is to be noted here that, the contraband i.e. the psychotropic substance which was seized from the house of the applicant, is of

commercial quantity. In view of the material available on record it is difficult for this Court to hold that the applicant is not guilty of the crime as contemplated under Section 37 of the NDPS Act.

7. In view thereof, I find no merits in the application.

Application is accordingly rejected.

(A.S.GADKARI, J.)