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

CRIMINAL BAIL APPLICATION NO.2545 OF 2018

Piyush Keshav Sahu ...Applicant

Versus

Union of India and Anr. ...Respondents

Mr.Anil G. Lalla, i/b Lall and Lalla, for the Applicant.

Mr.P.H.Gaikwad, A.P.P for the Respondent - State.

Ms.S.D.Khot for the Respondent No.1.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th JUNE, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with F.No. NCB/BZU/C.R.No.23 of 2017 registered with the Narcotics Control Bureau, Mumbai, for the alleged offences punishable under Sections 8(c), 22(c), 23, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, ('the NDPS Act')

3. Learned Counsel for the applicant submits that the applicant, aged 22 years was studying and pursuing his MBA at the relevant time in Nagpur. Learned counsel submits that the statement of the applicant recorded under Section 67 of the NDPS Act does not show that the applicant had any knowledge that the laptop bag given by his brother (accused no.1) contained 490 gms of white crystalline power, a psychotropic substance. He submitted that the applicant was only following his brother's (accused no.1) instructions and gave the laptop bag to DHL Express India Private Limited, for couriering the same to Australia.

4. Learned Counsel for the Respondent No.1 opposed the application. She, however, does not dispute, that apart from the statement of the applicant as well as accused no.1 recorded under Section 67 of the NDPS Act, and the statement of the courier agent, there is no other material, qua the applicant.

5. Perused the papers. On specific information, the officers of the Respondent No.1 seized 490 gms of white crystalline power from the laptop in the Hub of DHL Express India Private Limited, Mumbai, which

was supposed to be sent to Australia by Airway Bill No.4115269723. On enquiry, it was revealed that the said parcel was booked by a person named Rajat Mishra with the DHL office, situated at Nagpur. Pursuant thereto, the Investigating Officer of the Narcotics Control Bureau ('NCB'), Mumbai, proceeded to Nagpur. On enquiry, two persons who had allegedly come to the office of the DHL Express at Nagpur, to give the parcel, were found to be Mayank Sahu and the applicant – Piyush Sahu. Pursuant to the aforesaid, the applicant along with his brother – Mayank were arrested. A perusal of the statement of the applicant recorded under Section 67 of the NDPS Act shows that the applicant had no knowledge of the fact that the laptop contained a psychotropic drug. He has stated that the said laptop was given by his brother (accused no.1) for delivering the same to the Courier Agency at Nagpur, pursuant to which, he handed over the said laptop to the Courier Agency. He has also stated that the said parcel was given to his brother by a person named Dave Wilson, however, he had not personally met Dave Wilson. He has stated that although he knew that there was something illegal in the bag, he had no knowledge that a contraband was seized in the said laptop bag.

6. The applicant is aged 22 years and is a student and has no antecedents. Considering the material, as against him, there are reasonable grounds for believing that the applicant is not guilty of the offence. In view of the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs.50,000/-, for a period of four weeks;
- ii) The Applicant shall within the said period of four weeks, furnish P.R. Bond in the sum of Rs.50,000/- with one or more local sureties in the like amount;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the Narcotics Control Bureau office, in writing;
- iv) The Applicant shall not tamper with the evidence or attempt to

influence/contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall deposit his passport, with the Narcotics Control Bureau, Mumbai;

vi) The Applicant shall co-operate in the conduct of the trial;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the conditions, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.