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

***CRIMINAL INTERIM APPLICATION NO.866 OF 2021
IN
CRIMINAL APPEAL NO. 229 OF 2021***

Datta Uttam Kamble	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Taraq Sayyed a/w Mr. Advait A. Tamhankar, for the Applicant.

Mr. S. V. Gavand, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd APRIL, 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.
3. The applicant vide Judgment and Order dated 24th February 2021, passed by learned N.D.P.S. Special Judge, City Civil & Sessions

Court, Greater Bombay (CR.42), in NDPS Special Case No. 12 of 2014 has been convicted and sentenced as under:-

- for the offence punishable under Section 8(c) and Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, to suffer rigorous imprisonment for 4 years and to pay fine of Rs.20,000/-, in default, to suffer rigorous imprisonment for 1 year.

4. Learned Counsel for the applicant submits that there are several discrepancies in the station diary entries, inasmuch as, Mr. Jadhav, a member of the raiding party, his name has not been disclosed in the station diary, whereas Mr. Shinde, who was not a member of the raiding party, his name has been disclosed in the station diary. He submits that not a single independent witness including panch has been examined by the prosecution. It is further submitted that there is non-compliance of Section 42 and Section 50 of the Narcotic Drugs and Psychotropic Substances Act. Learned Counsel for the applicant further submits that the applicant was on bail pending trial and that not a single case has been registered as against the applicant whilst on bail. Statement accepted.

5. The Appeal has been admitted by a separate order passed today and the same is not likely to come up for the hearing in the immediate

near future. The sentence awarded is a short term sentence. Even otherwise, arguable questions have been raised by the learned counsel for the applicant.

6. Accordingly, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs.25,000/-, for a period of eight weeks;
- ii) The Applicant shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- iii) The Applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till his Appeal is finally disposed of;
- iv) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- v) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the

prosecution would be at liberty to file an application seeking cancellation of bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

REVATI MOHITE DERE, J.