

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

CRIMINAL APPLICATION NO.131 OF 2021

Jigar Harish Pungera

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Gaurav Bhawnani a/w Mr.Abdul Hafeez Kotwala i/b. Abdul Wahab Khan, Advocate for Applicant.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th MAY, 2021
(through video conferencing)

P.C. :

1. The application is filed for modification of condition No.2 passed in order dated 05/01/2021 passed in Order Below Ex.4 in Special Case No.377/2020, by the Special Judge (NDPS), Thane.

2. Heard Mr.Gaurav Bhawnani, learned counsel for the Applicant and Ms.Pallavi N. Dabholkar, learned APP for the State.

3. The Applicant was arrested in connection with C.R.No.I-338/2020 registered with Nayanagar Police Station, under section 8(C) r/w 20 of NDPS Act. The Applicant was granted bail u/s 167(2) of Cr.P.C. By that order the Applicant was directed to be released on bail on his furnishing PB & SB of Rs.2,00,000/- with two solvent sureties in the like amount.
4. The Applicant could not furnish those sureties and he made another application vide Ex.7 in the same case for modification of that order. That application was partly allowed vide order dated 04/02/2021 passed by the same learned Judge. Vide that order, the Applicant was directed to be released on bail on furnishing PB & SB of Rs.1,00,000/- with two or more solvent sureties in the like amount.
5. Learned counsel for the Applicant submitted that though the Applicant is facing charges under NDPS Act, he is a poor person and was a student. He is not in a position to furnish sureties as directed.

6. Learned APP opposed this application. She submitted that it is a serious offence and the conditions imposed are proper.
7. I have considered these submission. The imposition of condition is specifically within discretion of the learned Judge who grants bail. The only question is whether the learned Judge has exercised his discretion judiciously. From the record of the case it appears that the Applicant was found with 16.35 gms of MD. The commercial quantity is 50 gms. and small quantity is 2 gms.
8. Considering this background, the directions to furnish sureties in the sum of Rs.1,00,000/- cannot said to be unreasonable. Therefore it is not necessary to change that figure.
9. Learned counsel for the Applicant further submitted

that instead of two or more solvent sureties, the Applicant be permitted to furnish one or more solvent sureties in the like amount. This submission appears to be reasonable. Therefore to that extent the order can be modified.

10. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail on his furnishing PB & SB of Rs.1,00,000/- with one or more solvent sureties in the like amount.
- (ii) Rest of the conditions mentioned in the order dated 05/01/2021 passed by the Special Judge, are retained as they are.
- (iii) With these directions, the application is disposed of.

(SARANG V. KOTWAL, J.)