

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

904 BAIL APPLICATION NO.459 OF 2022

Manoj s/o Sheshrao Jogeshwari,
Age; 21 years, Occ; Private Job,
R/o; Sarola Road, Kushthadham,
Latur, Tq. & Dist. Latur.

... Applicant
(Original Accused)

VERSUS

The State of Maharashtra,
Through Police Station Officer,
MIDC Police Station,
Latur, Tq. & Dist. Latur.

...Respondent.
(Original Complainant)

...
Advocate for Applicant : Mr. Swapnil Joshi & Mr. Mahesh Swami
i/by (J.P.Legal Associates)
APP for Respondents-State : Mr.S.B.Narawade
...

CORAM : S. G. MEHARE, J.

DATE : 22.11.2022.

PER COURT :

1. Heard the learned counsel for the applicant and the learned APP for State.
2. The applicant is the accused in Crime No. 346 of 2021 for the offence punishable under Sections 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act' for short).

3. The learned counsel for the applicant seeks bail on the ground of parity. One of the co-accused has been released on bail by the Court, holding that the prosecution has failed to comply with the provisions of Section 42 (2) and 50 of the N.D.P.S. Act.

4. The learned APP has vehemently opposed the application contending that the applicant was continuously in contact with one Duggimpudi Shivashankar Venkat Reddi from Telangana, who was supplying the contrabands to the applicant. In addition the application has been opposed contending that one crime has been to the discredit of the applicant.

5. The facts of the case did not change.

6. The Co-accused is released on bail by the Court on the ground of non compliance of Section 50 and Section 42 (2) of the NDPS Act. So far as, the crime at the discredit of the applicant is concerned, it may not come in his way, as there was failure of legal compliance. The law has been settled by the Hon'ble Supreme Court that if the provisions under Section 50 of the NDPS Act has not been strictly complied with, the accused deserve bail. Considering the facts of the case and the settled law, the applicant has good case for bail. Hence the following order :

(I). The application is allowed.

(ii). The applicant Manoj s/o Sheshrao Jogeshwari, be released on bail on his executing P.B. and S.B. of Rs.25,000/- (Rs. Twenty Five Thousand Only), with one surety in the like amount, in Crime No. 346 of 2021, registered with Police Station MIDC, District Latur for the offence punishable under Sections 8(c), 20(b)(ii)(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the conditions, (i) he shall not tamper with the prosecution witnesses, (ii) he shall not involve in the similar crime, (iii) he shall not protract the trial.

(iii). Needless to state that the observations recorded above, are prima-facie and restricted to this bail application only.

(S. G. MEHARE)
JUDGE

mahajansb/