

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (BA) No.139/2022

Satish @ Mundi Teljirwar V State of Maharashtra thr PSO PS Rajura, Chandrapur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.M. Daga, Advocate for applicant.
Shri T.A. Mirza, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 29-06-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.664/2020 dated 19-12-2020 registered with Police Station Rajura, District Chandrapur for the offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'NDPS Act').

2. The learned Counsel for the applicant submits that the applicant is in jail since 19-12-2020. He further points out that there are in all four accused persons out of which three accused persons have already been released on bail.

3. He submits that the offence is registered under Sections 20 and 22 of the NDPS Act and if the language of both

the provisions is considered, the punishment for the person selling the contraband and purchasing it, is the same. Therefore, the applicant in the present application cannot be treated differently than the other accused persons who have already released on bail. He, accordingly, prays for parity.

4. He further points out that there are no criminal antecedents and as the investigation is over, further custody of the present applicant is not necessary.

5. On the other hand, learned APP strongly opposed the application and submits that commercial quantity of contraband was found at the rented premises of the applicant. Accordingly, he prays for rejection of the bail application.

6. I have perused the chargesheet, First Information report, reply of the learned APP and the provisions of Sections 20 and 22 of the NDPS Act.

7. Looking to the allegations made in the FIR, it appears that as per the prosecution story the applicant was found selling the contraband whereas, the other accused persons found purchasing the contraband. As per Sections 20 and 22 the punishment is same for the person found selling or purchasing the contraband. Therefore, in this case the applicant cannot be treated differently than the other accused persons who have already

released on bail.

8. The applicant is in jail for about one and half years and in this case the investigation is over and the chargesheet has already been filed. There are no criminal antecedents to the discredit of the applicant.

Moreover, there is nothing to show that if the applicant is released on bail, there is any possibility that the applicant will pressurize the prosecution witnesses or tamper with the prosecution evidence and/or he will not be available for the trial.

9. In the circumstances, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.664/2020 dated 19-12-2020 registered with Police Station Rajura, District Chandrapur for the offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- iii) The applicant shall attend the concerned Police Station on first day and 16th day of every month between 10.00 am to 12.00 noon, till the culmination of trial.

iv) Liberty is granted to the State to move an application for cancellation of bail, in case, breach of condition or if the applicant repeats the offence.

(Anil S. Kilor, J.)