

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

Criminal Application (BA) No.346/2022

Sangeeta Maheshwari V State of Maharashtra thr PSO PS Ganeshpeth, Nagpur

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 : 12-07-2022

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.0032/2022 dated 07-02-2022 registered with Police Station Ganeshpeth, District Nagpur city for the offences punishable under Sections 22(c), 29 and 8(c) of the Narcotic Drugs and Psychotropic Substances Act.

2. It is the case of the prosecution that during the raid when the applicant was intercepted the applicant was found with 5.170 gms. MD powder. Accordingly, the offence was registered against the applicant.

3. The learned Counsel for the applicant submits that as the applicant was found with intermediate quantity which is lesser

than commercial quantity and greater than smaller quantity, twin conditions of Section 27 will not apply. He further submits that there are no criminal antecedents to the discredit of the applicant.

4. Learned Counsel for the applicant submits that as the investigation is over and the chargesheet has been filed, the custody of the applicant is not necessary. It is pointed out that the applicant is in jail from last five months and there is no likelihood that the trial will commence in near future and keeping the applicant for uncertain period in jail, in the above referred circumstances would amount to pre-trial punishment. Accordingly, he prays for grant of bail.

5. On the other hand, learned APP strongly opposes the application and prays for rejection of the same.

6. I have perused the chargesheet, application and the reply filed by the State.

7. In this case during the raid when the applicant was intercepted she was found with 5.170 gms MD power which is according to the Notification issued by Ministry of Finance, New Delhi dated 05-02-2015, is intermediate quantity. As per the said Notification up to 2 gms MD powder is smaller quantity, whereas 50 gms and above is the commercial quantity.

8. The applicant is in jail from last five months and from the reply of the State it appears that the investigation is almost completed.

9. Considering the fact that the applicant was found with intermediate quantity and being a lady and further in view of the fact that there is no likelihood that the trial will commence in near future in this case, I am of the opinion that the applicant is entitled for grant of bail.

10. In the circumstances and for the reasons stated above, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0032/2022 dated 07-02-2022 registered with Police Station Ganeshpeth, District Nagpur city for the offences punishable under Sections 22(c), 29 and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 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 1st day of every month till 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 of breach of condition or if the applicant repeats the offence.

(Anil S. Kilor, J.)