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

BAIL APPLICATION NO.1042 OF 2023

**ANUP S/O GODAJI CHAVAN
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Sharma Kartik Rajesh
APP for Respondent/State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : JULY 06, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.120 of 2022 registered with Karmad Police Station, District Aurangabad for the offence punishable under Section 8(c), 20(b)(ii)(b) of Narcotic Drugs and Psychotropic Substance Act (for short 'NDPS Act').
3. After the FIR, the first informant was called by the Police Inspector where the witnesses were present with the weighing machine and he was told that the applicant is selling narcotic drugs in his home and they have to confirm the information. They went to the house as per the secret information. The applicant was not there. It was the house of one Santosh Mohbat Salunke. Then they took the

search of that house and found 5 bundles in one iron container. They seized it and registered the crime.

4. Perused the papers. The entire investigation is silent about the compliance of Section 42(1) and (2) of the NDPS Act. The compliance of the said section is mandatory in all cases of raid investigating the crime under NDPS Act. *Prima facie*, there is legal defect and that entitles the applicant to get the bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Anup s/o Godaji Chavan, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with the above crime, on the conditions that he shall not tamper with the prosecution witnesses.
- (iii) The applicant shall attend the concerned police station as and when called on written notice by the investigating officer, till filing the charge sheet.

(S.G. MEHARE, J.)