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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1417 OF 2022

Kishor D. Surve ...Applicant
 V/s.

The Commissioner of Customs
 ICE and anr. ...Respondents.

Mr. Tariq Sayyed a/w. Mr. Shekhar Mane and Mr. Sandip Magar i/b
 Mr. Abhay A. Jadhavar for the Applicant.

Mr. Amit Munde, Spl.PP for Respondent No.1/Customs.

Mrs.Veera Shinde, APP for the Respondent No.2/State.

CORAM : N.R. BORKAR, J.
DATE : 05.04.2023.

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 2 of 2016 registered by the Customs Department (Narcotic Cell) Pune for the offences punishable under Sections 22(c), 25 and 29 (1) read with 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

3. I have heard the learned counsel for the applicant, the learned standing counsel for the respondent/Customs and the learned APP for the State.

4. The bail is sought on the ground of prolong incarceration as an under-trial.

5. The learned counsel for the applicant submits that this Court by order dated 27 October 2021 in Bail Application No. 127 of 2021 filed by the co-accused Sundip Dhunay @ Sunny directed the Trial Court to conclude the trial within a period of six months. It is submitted that even after the order passed by this Court, there is no progress in the trial and the trial is still at the same stage, i.e., recording evidence of PW-1. It is submitted that the applicant is in jail for more than 7 years. It is thus submitted that the present applicant may be released on bail.

6. On the other hand, the learned standing counsel for the respondent/Customs submits that the applicant is involved in a serious crime. It is submitted that the psychotropic substances of commercial quantity were found in the possession of applicant and other co-accused. It is submitted that the applicant may therefore, not be released on bail.

7. I have already released the co-accused Sundip Dhunay @ Sunny on bail on the ground of prolong incarceration as an under-trial by order dated 1 March 2023 in Bail Application No. 2088 of 2022. For the reasons recorded in the said order, I am inclined to release the applicant on bail. In the result, the following order is passed.

ORDER

A] The Application is allowed.

B] The applicant be released on bail in C.R. No. 2 of 2016 registered by the Customs Department (Narcotic Cell) Pune for the offences punishable under Sections 22(c), 25 and 29 (1) read with 8(c) of the NDPS Act on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The applicant shall deposit his Passport with the Trial Court or shall file an affidavit that he does not hold the Passport.

D] The applicant shall attend the concerned Office of Customs Department (Narcotic Cell), Pune once in a month, i.e., on first Friday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.

[N.R.BORKAR, J.]