

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2046 OF 2022

Mahesh Netraprasad Sharma ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Ashwini Achari alongwith Mr. Advait Tamhankar instructed by Mr. Taraq Sayed for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 10 MARCH 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 14 of 2021 registered at Kharghar Police Station, Navi Mumbai for the offences punishable under Sections 8(C), 20, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. According to the prosecution, pursuant to secret information on 7 January 2021, the applicant and co-accused were apprehended and were found in possession of 1.10 kg. of Charas.

5. The learned Counsel for the applicant has drawn my attention to the seizure panchanama dated 7 January 2021. It appears that the weight of charas, which was allegedly found in possession of the applicant and other co-accused is inclusive of plastic bag wherein it was kept. According to the notification issued under Section 2 of the NDPS Act, possession of 1kg or above is commercial quantity. Thus in a case like this the weight of the plastic bag ought to have been excluded as only 10 gms. of charas was above the commercial quantity. The applicant is in jail for more than 2 years. There are no other criminal antecedents.

6. The learned APP submits that the applicant may not be released on bail as the applicant was found in possession of commercial quantity of charas. However, considering the facts and circumstances, I am inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant - Mahesh Netraprasad Sharma be released on bail in Crime No. 14 of 2021 registered at Kharghar Police Station, Navi Mumbai for the offences punishable under Sections 8(C), 20, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the police station once in a month i.e., on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.

(N.R. BORKAR, J.)