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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2133 OF 2023**

SUMAIYYA SHARIF HUSAIN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Pritam P. Runwal for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 5, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 20(b) and 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered vide C.R. No.I-154 of 2022 with Azad Nagar Police Station, Malegaon, District Nashik.

3. The FIR was registered on 16.11.2022. The applicant is the accused no.1. The applicant was arrested on 16.11.2022. The applicant was found in possession of 1 kg

and 18 grams of contraband 'Ganja'. The same is intermediate quantity lesser than the commercial quantity. The rigours of Section 37 of the NDPS Act do not apply in the present case.

4. Learned APP submitted that the procedural requirement of the NDPS Act has been followed while effecting search, seizure and arrest. She submitted that huge quantity of 'Ganja' is found and therefore the applicant should not be enlarged on bail.

5. One of the contention raised by learned counsel for the applicant is that there is no proper compliance of Section 50(1) of the NDPS Act. The contention is that though the applicant was informed that if she desires she can be searched before a Gazetted Officer, however from the materials, prima facie it is seen that the applicant has not been appraised of her right to be so searched. The applicant is a woman and in custody almost for nine months. The investigation is complete. The charge-sheet has been filed. The trial is likely to take a long time to conclude. There are no criminal antecedents reported

against the applicant. The applicant is therefore enlarged on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Sumaiyya Sharif Husain in connection with C.R. No.I-154 of 2022 registered with Azad Nagar Police Station, Malegaon, District Nashik shall be released on bail on her furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Azad Nagar Police Station, Malegaon, District Nashik once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

6. The application is disposed of.

(M. S. KARNIK, J.)