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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3133 OF 2022

Krishna Raju Koli ..Applicant
VS.
State of Maharashtra ..Respondent

Mr. M.B. Shirsat i/b Mr. Vikas Paras Mishra a/w Prathamesh Naik, for the Applicant.
Ms. A. A. Takalkar, APP for the State.
PSI-Mr. Rahul Bhagwat, Nayanagar Police Station present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 23, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No. II-456 of 2021 dated 11/08/2021 registered with Nayanagar Police Station for the offence punishable under sections 8(C), 20(b)(II)(b)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter "NDPS Act", for short)
- 3.** The applicant was arrested on 11/08/2021 and now is in custody for 1 year and 6 months. The investigation is

complete. The charge-sheet has been filed. The applicant was found in possession of ganja, admittedly non-commercial quantity. The same is stated to be intermediate quantity. My attention is invited to page 31 of the paper-book which is in respect of compliance of the provisions of section 50 of the NDPS Act. The applicant was informed about the right to be searched before the Magistrate. But there is nothing to indicate that he also was informed about the right to be searched before the gazetted officer in terms of section 50.

4. It is submitted by learned APP that this was a chance recovery and the ganja was recovered from bag and therefore there is no need to comply section 50 of NDPS Act. Though there is substance in what is submitted by learned APP, however, once the officers decided to resort to the provisions of section 50, then there should be proper compliance of section 50. I do not want to express any opinion which will influence the trial.

5. Without making any observations on merits at this stage, suffice it to observe that the investigation is

complete and the charge-she has been filed. There are no criminal antecedents recorded against the applicant. Considering that what has been recovered is non-commercial quantity of ganja and that the applicant is in custody for 1 year and 6 months, the applicant can be released on bail. There is no possibility of trial commencing and concluding any time soon. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant – Krishna Raju Koli in connection with C.R.No.II-456 of 2021 dated 11/08/2021 registered with Nayanagar Police Station shall be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

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

(e) On being released on bail, the applicant shall furnish his contact number and residential address to

the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change.

(f) The applicant shall report to the Investigating Officer once a month i.e. on the first Monday of every month between 10.00 a.m. and 1.00 p.m.

5. The application is disposed of.

(M. S. KARNIK, J.)