

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

**INTERIM APPLICATION NO.200 OF 2023
IN
CRIMINAL APPEAL NO.787 OF 2022**

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Nikhil Alias Sunny Suresh Gaikwad ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Akshay Bankapur, for the Applicant.
Mrs. M. R. Tidke, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 13th MARCH, 2024

PC.

1. Heard the parties.
2. This Application is for suspension of sentence and release of the Applicant on bail. The Applicant is convicted by Special Judge, Nashik in Special (NDPS) Case No.5 of 2013 by judgment dated 15.07.2022 to suffer 10 years rigorous imprisonment and to pay fine of Rs.1,00,000/- for the offence under Section 20(C) of the NDPS Act. Applicant was on bail during trial. He is taken in custody on the date of judgment i.e. 15.07.2022.
3. Learned advocate submits that during the trial, Applicant was on bail. There are no criminal antecedents. There is

no complaint of misuse of liberty. This Court has already granted bail to the co-accused/Chandrashekhar Sukdev Sherekar by order dated 8th November, 2023 in another Application No.1059 of 2023. He thus submits that on the ground of parity also, Applicant deserves to be released on bail by suspending sentence.

4. Learned APP vehemently opposes the Application stating that there are criminal antecedents. There is crime registered against this Applicant bearing Crime No.3100 of 2012 for the offence under Section 20(B) and 20(C) of the NDPS Act r/w Section 34 of IPC. Learned APP further submits that if the Applicant is released on bail, he is likely to commit similar offences in future. Learned APP produces on record copy of communication dated 27.02.2024 from the Police Sub Inspector, Panchavati Police Station, Nashik addressed to learned APP.

5. Learned advocate for the Applicant however submits that from the said offence, he came to be discharged. He has also shown relevant extract from the charge-sheet in that case where his name is not shown as accused. He thus submits that there are no criminal antecedents.

6. This Court thus considered the Application. It is seen that the co-accused is already released on bail by this Court as stated above. The role attributed to the said accused appears to be similar to the present accused. The main ground on which the

present Application pressed is, ground of parity. As already recorded, the Applicant is not shown in the charge-sheet as accused in Crime No.72 of 2012. Considering the above, this Court finds that a case is made out to grant bail to the accused. The Application deserves to be allowed. Hence, the following order :-

- i) The Application stands allowed.
- ii) The substantial sentence awarded by learned Special Judge, in Special (NDPS) Case No.5 of 2013 by way of judgment and order dated 15.07.2022 stands suspended, subject to payment of fine of Rs.50,000/- within eight weeks after release of the Applicant.
- iii) Applicant shall be released on bail on furnishing PR bond and solvent surety in the sum of Rs.15,000/-, subject to condition of depositing the amount within eight weeks after release on bail.
- iv) Applicant shall attend Panchavati Police Station, Nashik twice in month i.e. on every 2nd and 4th Saturday at 11:00 a.m.
- v) Applicant shall furnish contact details including his mobile number to the concerned Police Station. If there is any change in contact details as mentioned above, Applicant shall immediately inform to the concerned Police Station.
- vi) Applicant shall not indulge in similar activities.

vii) In case of failure to deposit amount as stated above, bail granted to the Applicant shall be liable to be cancelled.

7. The Application stands disposed of.

[KISHORE C. SANT, J.]