

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

CRIMINAL BAIL APPLICATION NO. 2947 OF 2024

Geeta Uday Swami

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Jogendra Thakur, Advocate for Applicant.

Mr. P. P. Deokar, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 18th OCTOBER, 2024

PC:-

- 1) Heard.
- 2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No. 229 of 2023 registered with Tulinj Police Station, for the offences punishable under Sections 22(A) and 8(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.
- 3) The learned Counsel for the applicant states that there is no compliance of Section 50 of the NDPS Act, 1985 as in the notice given to the applicant. There is no mention of legal rights of being searched before the Magistrate or any other Gazetted Officer. It is stated that in place of the word 'legal right' the words used are 'her right'. Hence, it is

submitted that there is no compliance of Section 50 of the NDPS Act, 1985.

4) He further submits that CA report is not available on record. Thus, it cannot be said that the articles which were seized are of contraband. Furthermore, considering the evidence there is a delay of one month in preparing inventory. He lastly argues that a period of long incarceration is also a ground of bail.

5) The learned Counsel for the applicant has placed reliance upon the judgment of the Hon'ble Supreme Court of India in the cases of Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)¹, Rabi Prakash Vs. The State of Odisha², Vijaysinh Chandubha Jadeja Vs. state of Gujarat³, Arif Khan @ Agha Khan Vs. state of Uttarakhand⁴. He also placed reliance of the judgment of the Hon'ble High Court of Delhi in the case of Emeka Emmanuel Vs. The State, dated 18th November, 2022 in Bail Application No. 1231 of 2022 and this Court in Bail Application No. 3341 of 2023 in the case of Shubham @ Chingya Ravindra Jadhav Vs. The State of Maharashtra, dated 23rd September, 2024.

6) The learned APP, on the other hand, strongly opposed the application and submitted that since the offence is serious and every compliance was made, this is not a fit case for grant bail. Accordingly, he prays for the rejection of the application.

7) Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, it is evident that in the notice given under Section 50 of the NDPS Act, 1985,

1 2023 SCC Online SC 352

2 2023 SCC Online SC 1109

3 (2011) 1 SCC 609

4 2019 (3) SCC (cri) 176

there is a specific mention about right of applicant of being searched by Magistrate or any other Gazetted Officer. Therefore, for the reason that the word 'legal' is not mentioned before the words 'her right', will not vitiate the notice.

8) As far as the submission that there was a delay in preparing the inventory also needs to be rejected as the inventory was prepared in a month before the Magistrate. The ground that CA report is pending cannot be the ground for grant of bail. The last submission that the long period of incarceration cannot be accepted considering the month of arrest i.e. March, 2023.

9) In the circumstances, as there is no case made out for grant bail and as the authorities cited by the learned Counsel for the applicant are of no help in view of the above-referred observations, accordingly, the application is **rejected** and disposed of.

[ANIL S. KILOR, J.]