



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPLN) NO. 85 OF 2022

Directorate of Revenue Intelligence (DRI) Nagpur Regional Unit, Nagpur

V/s

Pawan Sharma s/o Ram Kishan Sharma

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.N. Bhattad, counsel for the applicant.

Mr. A.S. Band, counsel for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 29/04/2024.

1. By this application, the applicant i.e. Directorate of Revenue Intelligence, Regional Unit seeking cancellation of bail of the present applicant, on the ground that learned trial Court erroneously granted the bail, considering that there was no compliance of Section 50 the Narcotic Drugs and Psychotropic Substances Act, 1985 (the NDPS Act).

2. Learned counsel for the applicant Mr. S.N. Bhattad submitted that observation of the Magistrate that there is no compliance of Section 50 of the NDPS Act in the instant case and granted the bail, is erroneous one. He submitted that while granting the bail, the Sessions Court has applied wrong principles of law, and observed that the provision of Section 50(1) of NDPS Act was not complied in the instant case. He further submitted that non-compliance of compliance of Section 50 of the NDPS Act not required to be seen at the stage of bail. In view of the judgment of the Hon'ble Apex

Court in the case of ***State of Punjab Vs. Balbir Singh, 1994 (3) SCC 299*** as well as in the ***Vijaysingh Chandubha Jadeja V/s State of Gujarat reported in (2011) 1 SCC 609***.

3. The said application is strongly opposed by the respondent on the ground that compliance is to be seen at the stage of bail as the compliance is of a mandatory in nature. Therefore, there is no error committed by the learned Sessions Court. He further submitted that now, the case is already posted for judgment and no purpose will be served by canceling the bail of the present applicant.

4. In support of his contention, he placed reliance on ***Himanshu Sharma Vs State of Madhya Pradesh reported in 2024(2) SCALE*** wherein the Hon'ble Apex Court held that learned Single Judge while cancelling the bail granted to the appellant did not even considered the fact that charges has been framed against the appellant on 12/05/2022 (20.5.2022) and the trial had commenced and there could not have been any requirement of the appellant for further investigation as observed in para-7 of the impugned order.

5. He submitted that in the present case now, evidence is already recorded and the case is already posted for judgment, no purpose would be served by taking the applicant in custody and by cancelling his bail. He submitted that as far as the compliance of Section 50 of the NDPS Act is concerned, which is mandatory in nature and therefore, the order passed by the learned trial Court is legal.

6. Having heard learned counsel for the applicant and learned counsel for the respondent, perused the impugned order. As far as the submission of the learned counsel for the applicant is concerned, the compliance of Section 50 which is a mandatory compliance and not be considered at the stage of bail and placed reliance on the judgment of the Constitutional Bench of the Hon'ble Apex Court in the case of *Vijaysinh Chandubha Jadeja Vs State of Gujarat* referred (supra). There is no dispute as to the legal position is concerned, but considering now, the trial is already commenced and at the fag end that for delivering the judgment, no purpose would be served by cancelling the bail granted to the present respondent.

7. In view of the above facts and circumstances, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

ORDER

The criminal application (APPLN) No. 85/2022 is rejected.

[URMILA JOSHI-PHALKE, J.]