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

CRIMINAL BAIL APPLICATION NO. 1222 OF 2024

Hareshwar Dnyaneshwar Patil

.. Applicant

Versus

The State of Maharashtra

.. Respondent

-
- Mr. Mahaling Pandarge a/w. Mr. Abhiman D. Patil, Advocates for Applicant.
 - Mr. Sukanta A. Karmakar, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 27, 2025.

P.C.:

- 1.** Mentioned at the time of rising of the Court.
- 2.** Heard Mr. Pandarge, learned Advocate for Applicant and Mr. Karmakar, learned APP for Respondent – State.
- 3.** In the present case, Applicant is one of the Accused arraigned as Accused No.2. There are all 4 accused persons. Accused Nos.1 and 2 were apprehended together by the raiding team on the specific Intelligence Report received by them about their suspicious movement with the alleged contraband. Accused No.1 was apprehended with 45 grams of MD whereas present Applicant – Accused No.2 was apprehended with 125 grams of MD i.e. the alleged contraband.

4. Statements were recorded and they informed that it was the Accused No.4 who had supplied the alleged contraband to Accused No.3 who had in turn supplied the alleged contraband to Accused Nos.1 and 2. In so far as Accused Nos.3 and 4 are concerned, they were arrested, but no contraband was seized from their conscious possession. The other 3 co-accused persons have been enlarged and released on bail. Their bail orders are appended at page Nos.162, 166 and 170 of the Application.

5. Mr. Pandarge, learned Advocate for Applicant would draw my attention to page No.42 of the Application and would submit that as per the entry made and noted in the station house diary by the prosecution officer / team, it is stated therein that specific secrete information was received from the First Informant and noted down by Police Hawaldar Mr. Gore. He would next draw my attention to page No.45 of the Application and would submit that intimation of the said information was received as contemplated under Section 42(2) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short “**NDPS Act**”) has been however informed by the Assistant Police Inspector Mr. Nagesh Chikne. Perusal of the said letter at page No.45 states therein that the information was infact received by Mr. Gore and thereafter informed to Mr. Nagesh Chikne. *Prima facie* this is impermissible and clear transgression of the provisions of Section 42(2) of the NDPS Act. The person who receives the information is

required to forward the said information to the superior within a period of 72 hours as contemplated under the provisions of Section 42(2) of the NDPS Act. This is not having been done in the present case which is *prima facie* borne out from the two documents appended at page Nos.42 and 45 of the Application.

6. In the above *prima facie* facts and circumstances of the present case the Applicant before me has made out a case for bail.

7. This Court in the case of *Anil Kailashnath Choursiya Vs. The State of Maharashtra*¹ has considered the aforesaid position on the basis of the Supreme Court decision in the case of *Sarija Banu Alias Janarthani Alias Janani and Anr. Vs. State through Inspector of Police*².

8. In that view of the matter, Mr. Karmakar, learned APP shall consider the aforesaid submissions made by the learned Advocate for Applicant and accordingly apprise the Court on the next adjourned date.

9. List the Bail Application on Board on **03rd April, 2025** for hearing and disposal. To be placed on the ‘**Supplementary Board**’.

[MILIND N. JADHAV, J.]

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¹ Cri. BA. Nos.4148 of 2024 and 703 of 2025 – Decided on 24.03.2025.
² (2014) 12 SCC 266