## IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH, NAGPUR.

## CRIMINAL APPLICATION (BA) NO.463 OF 2022

AKASH S/O CHANDRAKANT DHEKLE VS STATE OF MAH. THR. PS NDPS DEP. CRIME BRANCH NAGPUR GANESHPETH NAGPUR

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.

Court's or Judge's orders.

Shri C.S. Dharmadhikari, Advocate for applicant Shri A.M. Deshpande, APP for the State / Non-applicant

CORAM: ANIL S. KILOR, J. DATED: 07<sup>th</sup> JULY, 2022.

- 1. The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.32 of 2022 dated 07.02.2022, registered with Police Station: Ganeshpeth, Nagpur (City), for the offence punishable under Sections 8(c), 22(c), 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985.
- 2. The learned counsel Shri Dharmadhikari, appearing for the applicant, submits that since the applicant had relation with accused No.2 Ms Maheshwari, he went to the railway station to pick up her, and when the applicant and the accused Nos.1 and 2 were coming out of the railway station, they were intercepted and Mephedrone Drugs (MD) powder 57 grams was recovered from the accused Nos.1 and 2. It is submitted that the applicant is no way connected with the alleged offence.

- 3. It is submitted that nothing has been recovered from the applicant and there are no criminal antecedents to the discredit of the applicant. He submits that CDR cannot connect the applicant with the alleged offence. However, it only shows that the applicant made phone calls to the accused No.2 as there were love relations of the applicant and the accused No.2.
- 4. It is further submitted that the applicant is in jail from 07.02.2022 and as there is nothing to show the involvement of the applicant in the alleged offence, keeping the applicant in jail for uncertain period, would amount to pre-trial punishment.
- 5. On the other hand, the learned APP strongly opposes the application and submits that the investigation is going on. He further submits that the commercial quantity of contraband found with the accused Nos.1 and 2. He submits that the applicant was found along-with accused Nos.1 and 2 and the CDR shows that the applicant is involved in the alleged offence. Accordingly he prays for rejection of the present application.
- 6. I have perused the Case Diary, the contents of the First Information Report (FIR) and the reply of the State.
- 7. It appears that on a secret information received by the complainant, the accused were intercepted and commercial quantity of contraband was found with the accused Nos.1 and 2.
- 8. The CDR shows that the applicant was in contact with the accused No2.

- 9. It appears that because of love affair between the applicant and the accused No.2, the applicant was in contact with her, even six months prior to the alleged incident.
- 10. Considering the above referred possibility, the CDR is not sufficient to connect the applicant with the alleged offence. Except the CDR and the fact that the applicant was found along-with accused Nos.1 and 2, there is no incriminating material against the applicant.
- 11. Considering the relations between the applicant and the accused No.2, the presence of the applicant along-with accused Nos.1 and 2, is possible, in view of the case of the applicant that he went to the railway station to pick up the accused No.2. Thus, even the fact that the applicant was found along-with accused Nos.1 and 2, is not sufficient in this case to show his involvement in the alleged offence. Thus, there is a reasonable ground to believe that the applicant is not guilty of alleged offence.
- 12. There are no incriminating antecedents of similar nature to the discredit of the applicant. Thus, I am of the opinion that there is a reasonable ground to believe that if the applicant is released on bail, there is no possibility that he will commit the similar offence.
- 13. Thus, in absence of any incriminating material available against the applicant and considering the fact that the applicant is in jail from last more than five months, I am of the opinion that the further custody of the applicant is not necessary in this case.
- 14. Accordingly, I pass the following order:

- i) The application is allowed.
- ii) It is directed that applicant shall be released on bail in Crime No.32 of 2022 dated 07.02.2022, registered with Police Station: Ganeshpeth, Nagpur (City), for the offence punishable under Sections 8(c), 22(c), 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985, on his furnishing P.R. Bond of Rs.25,000/with a solvent surety in the like amount.
- iii) The applicant shall attend the concerned Police Station on 1<sup>st</sup> day of every month in between 10.00 a.m. to 12.00 noon, till culmination of trial.
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.

The application is accordingly disposed of.

**JUDGE** 

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