

ORDER ON THE APPLICATION FILED UNDER SECTION 445 OF
Cr.P.C.,

The accused No.1 has filed this application U/s.445 of Cr.P.C., seeking permission to allow him to offer cash surety instead of furnishing two solvent sureties by submitting that he has already filed bail application under Section 439 of Cr.P.C., and the same was allowed by this Court conditionally. On the other hand, he is unable to trace out two solvent sureties as directed by this Court. Therefore, through this application he is seeking to permit him to deposit cash surety. Hence, prays to relax the above condition imposed by this Court.

2. The learned I/c Public Prosecutor has orally objected this application and prays to dismiss the application on the ground that the accused belongs to different state and if he released on bail without obtaining proper surety, then it will be difficult to secure his presence for trial.

3. Heard both the sides. Perused the materials available on record.

4. This accused has been arrested by the complainant police on 19.04.2023 red handedly along with 2 kg., 60 grams of Ganja while selling the same. Therefore, he has been booked for

the offence under Section 20(b) (ii) (B) of NDPS Act. Consequently, he filed bail application under Section 439 of Cr.P.C., before this Court and the same was allowed with condition to execute personal bond for Rs.1,00,000/- and to furnish two solvent sureties for the likesum, apart from imposing other conditions.

5. Now the contention of the accused is that he is unable to furnish two solvent sureties having landed properties and therefore, he is ready to offer cash surety. The accused belongs to different State. Therefore, the police may face some difficulty in securing his presence in case if he released on bail without obtaining proper surety. On the other hand, since the accused No.1 has already obtained bail from this Court, his contention is needed to be considered as highlighted by their Lordships of Hon'ble Supreme Court of India in **SMWP (Criminal) No.4/2021 in case of In Re Policy Strategy for Grant of Bail Vs. Nil**. As the accused No.1 is ready to furnish cash surety, the condition imposed by this Court to furnish two solvent sureties can be relaxed. Accordingly, this Court feels that the condition of executing bail bond and furnishing surety can be modified to the effect that he shall execute personal bond for Rs.1,00,000/- with cash surety of Rs.30,000/-. Accordingly, this Court proceeds to pass the following:

ORDER

The application filed by the accused No.1 under Sections 445 of Cr.P.C., is allowed.

Consequently, the condition imposed for executing personal bond and furnishing two solvent sureties is hereby modified to the effect that the accused shall execute personal bond for Rs.1,00,000/- with cash surety of Rs.30,000/-. However, the other conditions of bail order remained unmodified and the accused shall follow the same without fail.

The above modification of condition is subject to condition that if the accused failed to appear before the Court on subsequent hearing dates, the cash surety that will be furnished by him shall be confiscated to the State.

(SHUKLAKSHA PALAN)
PRL. SESSIONS JUDGE, KOLAR.