

ORDER ON BAIL APPLICATION OF ACCUSED No.1

The accused No.1 Krishnamurthy, who is in judicial custody since 25.02.2025 in this case, has filed this successive bail application under Section 483 of BNSS r/w Section 37 of NDPS Act seeking regular bail for the offence punishable under Section 20 (b) (ii) (C) of NDPS Act.

2. In brief, the case of the prosecution is as under:

Upon receipt of credible information about transporting Ganja in an Auto from Nangli Road towards Mulbagal on NH-75, a raid was conducted by the police inspector, Mulbagal Rural Police Station on 24.02.2025. The police inspector after receiving the secret information proceeded to the spot and intercepted the Auto bearing Reg.No. KA-07-B-1049 and inquired the persons sitting in the said Auto i.e., the accused Nos.1 and 2. It is seen that by conducting a detailed mahazar 23 kg., 805 grams of Ganja was seized from the possession of accused Nos.1 and 2. Accordingly, a case is registered and investigation is going on. During interrogation the accused Nos.1 and 2 confessed about commission of alleged offence and they have also revealed that the seized Ganja was being sold to them by the accused No.4 and he is the main source of Ganja to them. In the case on hand investigation is completed and charge sheet is also filed.

3. It is contended by the accused No.1 that he is innocent; he never committed the alleged offence and he has been falsely implicated. The complainant police have not complied the mandatory provisions of Sections 42, 50, 52, 55 and 57 of NDPS Act. The seizure of Ganja is not as per the

prescribed provision of NDPS Act. The alleged offence is not punishable with death or life imprisonment. As charge sheet is filed he is not required for custodial interrogation. Since the date of arrest he is in judicial custody. In similar cases and circumstances the Hon'ble High Courts and Hon'ble Apex Court granted bail to the accused in so many cases. He is law abiding citizen; he has no bad antecedents and he is a young man. He is ready to furnish surety. He is ready to abide by conditions imposable by this Court. Therefore, it is prayed to release him on bail.

4. The learned Public Prosecutor has filed detailed objection opposing the bail application, contending that in the case on hand there are sufficient materials to show the involvement of the accused in the alleged crime. Investigation is completed and charge sheet has been filed. The quantity of Ganja involved in the case on hand is commercial quantity. The earlier bail application of accused No.1 was rejected by this Court. No special grounds are made out to considering this successive bail application.

5. Heard arguments and perused the records.

6. The sole point that arises for my consideration is *"Whether accused No.1 is entitled for regular bail"?*

7. My finding on the above point is in the **negative**, as per final order, for the following:

REASONS

8. As per the list of articles and case of prosecution, the total Ganja seized in the present case is 23 kg., 805 grams,

which is commercial quantity and as such, special provision of Section 37 of NDPS Act is applicable to the case on hand. Section 37 of NDPS Act deals with the power of the Court in granting bail. In the case between **Sukhdev Singh Vs. Union Territory of Chandigarh, reported in (1986) Cr.L.J. 1957 (Punjab and Haryana)**, it is held that “It is plain from the language of Section 37(1) (b) that the Court must adopt a negative attitude towards bail, but turn positive firstly if it is satisfied that there are reasonable grounds for believing that the accused is not guilty of offence under the Act and secondly that he is not likely to commit any offence while on bail. Both these tests must be satisfied before bail can be granted.” According to this Court there are no reasonable grounds for believing that the accused No.1 is not guilty of the offence. Secondly, there are no reasonable grounds to believe that, the accused may not commit an offence on bail. The earlier bail application filed by the accused No.1 was rejected by this Court on the grounds noted above. Now after filing of charge sheet the accused No.1 has once again approached this Court with this successive bail application. In the present application he has not made out any changed, special or mitigating circumstances to consider his prayer for bail. Mere filing of charge sheet cannot be considered as a changed circumstances. On the similar grounds urged in the earlier bail application he has filed the present application. The learned counsel for the accused No.1 has relied upon some of the judgments of Hon’ble Apex Court and Hon’ble High Court of Karnataka. But, the proposition laid down in the said cases is not applicable to the case on hand, as the facts and circumstances of the said cases and the present case are

quite different. The same yardstick cannot be applied to the case on hand. It is the main contention of the accused No.1 that there is gross violation of provisions of Section 42, 50, 52, 55 and 57 of NDPS Act by the raiding party. Whether there was compliance of the procedure laid down under the above noted Sections of the NDPS Act is a question of fact and the same would be determined by the Court on the basis of the evidence led during trial. The said stage is not reached so far, as trial is yet to be commenced in the case on hand. As the commercial quantity of Ganja is involved and as the trial is yet to be commenced in the case on hand, it is not a fit case and stage to grant bail to the accused No.1. Moreover, as noted above the accused No.1 has not made out any special grounds to consider his prayer. Accordingly, I answer point under reference in the **negative** and proceed to pass following:

ORDER

The application filed by accused No.1 under Section 483 of BNSS r/w Section 37 of NDPS Act is “rejected”.

Call on by

Sd/-

PRL. DISTRICT & SESSIONS JUDGE, KOLAR.