

**ORDER BELOW EXH. 18**

1. This successive/second bail application filed u/sec.439 of Cr.P.C by accused no.1.

**Arguments :-**

2. Adv. Wasif for accused no.1 submitted that the first bail application no.42/22 was filed by accused during investigation and the same was rejected. Now charge-sheet is filed. There is contradiction with respect to time of coming the car in complaint and panchanama. The police did not seal and seize the contraband at Shiva Punjab Hotel. Accused no.1 is not owner of car where from contraband is seized. Sec.20(c) of the Act is added after two months of registration of crime. In general diary it is mentioned that the Ganja was 2 k.g. The contraband was not owned and possessed by accused no.1 and it was of accused no.2. Accused no.2 has been released on bail by Hon'ble High Court and so on the ground of parity accused no.1 be released on bail. Merely accused having antecedents cannot be a ground to refuse bail. Accused no.1 is suffering from brain problem and so application be allowed.

3. Whereas, APP Shri. Pagare submitted that the first bail application is rejected on merit. There is no change in circumstances. The accused no.1 is having antecedents as 8 crimes are registered against him. So application be rejected.

**Reasons :-**

4. The accused no.1 is charge-sheeted for offences u/sec.20(b), 20(c) & 22 of the NDPS Act.

5. After completion of investigation I.O. filed charge-sheet. Thereafter, the accused no.1 filed first bail application no.42/22. It was heard on merit and rejected it on the ground that a prima facie case is made out against accused, parity is not applicable to him, accused no.1 is having antecedents as 8 crimes are registered against him. So if he is released on bail there is chance of his committing another crime and other grounds.

6. Thereafter, this second bail application is moved by accused no.1. Therefore, it has to be considered whether there is any change in circumstances after rejecting his first bail application.

7. By way of this application accused no.1 is seeking bail on the ground that no prima facie case is made out against him, parity and antecedents. This court had considered all these points in detail while deciding his first bail application no.42/22.

8. It is the contention of advocate for accused no.1 that accused is suffering from brain problem. However, there is no satisfactory material on record to show that accused no.1 is suffering from brain problem to such an extent that he is to be released on bail.

9. There is no substantial change after rejecting his first bail application by passing detail order below bail application no.42/22. Hence, considering above discussion, following order is passed.

### **ORDER**

Application is rejected.

Date : 29.09.2022

( D.Y. Gaud )  
Additional Sessions Judge,  
Malegaon, District Nashik.