

MHRG170001752021



IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD
ORDER BELOW EXHIBIT 15
IN SPECIAL CASE (NDPS) NO.14/2021
(Dated 28/09/2022)

1] Application is for bail by applicant/accused No.2 **Kondiba Gunjal** as per section 37 of the NDPS Act.

2] The applicant/accused submits that, custom case is false and bogus. He was arrested on 09/08/2020 and is behind bar for last 8 months. It is submitted that, expert's opinion is not yet received. The IO has filed a final report. The applicant/accused No.2 will not tamper the evidence. He is permanent resident of Mumbra, Thane. He pray for bail.

3] The Intelligence officer, DRI has opposed the bail application by say at Exh.20. It is submitted that, section 37 of the Act is applicable and accused No.2 is not entitle for bail.

4] Heard Ld.Adv.Shri Gangan for applicant/accused and the Special Prosecutor, for DRI. Ld.Adv.for accused No.2 has filed written notes of arguments at Exh.32. Following point is formulated for determination, the points alongwith findings and the reasons thereto is as under.

SR. NO.	POINTS	FINDINGS
1.	Does applicant/accused No.2 Kondibhau Gunjal has made out justifiable grounds to grant bail ?	... In the Negative
2.	What order ?	... As per final order

REASONS

As to point No.1 :-

5] Ld.Adv.for the applicant/accused submitted that, accused No.2 has no link or connection in the present crime. The offence u/sec.23 or u/sec.29 of the Act is not attracted. He placed his reliance on the case of Aryan Khan Vs.Union of India. He also pointed out that, bail application of accused No.1 Meenanath is rejected by the Hon'ble High Court, however, observations of the Hon'ble High Court are that, accused No.1 was in touch with accused No.4 only.

6] Ld.Spl Prosecutor for DRI relied upon the decision of NCB Vs Mohit Agrawal 222 SCC Online SC 891 and on the decision of State of Kerala Vs. Rajesh and others (2020) 12 SCC 122.

7] At the outset it be noted that, the quantity of contraband alleged in the present crime is of a commercial quantity. Section 37 of the NDPS Act laid down that, a person cannot be released on bail, for offense involving commercial quantity unless the court is satisfied that, there are reasonable

grounds for believing that, he is not guilty and he is not likely to commit any such offense, while on bail.

8] The observations of Hon'ble High Court while deciding bail application of accused Meenanath, are not sufficient to come to a conclusion that, there are reasonable grounds to believe that, accused is not guilty. The reason for the same is that, the investigation agency has collected CDR between accused Nos.1 and 2. The accused Nos.1 and 4 were in touch with each other. Hence, I find no justification in the bail application. Hence, I answer point No.1 in negative and pass following order.

ORDER

1. Applications Exh.15 stands rejected.

Panvel

(Jairaj D.Wadne)

Dated :- 28/09/2022

Addl. Sessions Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer	: S.J.Sheth
Name of the Court	: Additional Sessions Judge, Panvel Raigad
Date of dictation	: 28/09/2022
Order signed by the P.O.on	: 28/09/2022
Order uploaded on	: 30/09/2022

