



Order Below Exh.36
(In Spl. Case (NDPS) No.183/2021)

1. This application is filed u/s.439 of Criminal Procedure Code, 1973 (in short "CrPC) by **accused No.3 Hardev Singh** for releasing him on temporary bail on ground of marriage of his daughter.
2. Say of Union of India was called upon and say is filed at exh.37. Application is strongly objected.
3. Heard Ld. Advocate Mr. Falguni Bramhabhat for accused and Ld. Spl. P.P Mr. P. V. Mhatre for Directorate of Revenue Intelligence.
4. Ld. Advocate for accused submitted that marriage of daughter of accused is to be held on 4 February 2024. He has to perform certain ceremonies in the marriage. He is farmer by profession. He is permanent resident of Madhya Pradesh. He has no antecedence. No other application for temporary bail is pending in any Court. His bail application for regular bail is pending before Hon'ble Bombay High Court. Considering urgency and reason, temporary bail of 20 days be granted on humanitarian ground.
5. Ld. Spl. P.P submitted that regular bail application is pending before Hon'ble Bombay High Court therefore, this application is not maintainable. In present case, Heroin of commercial



quantity is seized. Accused is habitual offender and he may abscond, if released on bail.

6. Perused Say and charge-sheet. Points for determination along with my findings thereon are as follows.

Sr. No.	Points	Findings
1	Whether considering material on record Accused can be released on temporary bail?	No
2	What order?	Application is rejected.

:: REASONS ::

AS TO POINT NO.1

7. Present case is pending for charge of accused. Some of the accused are not arrested. Directorate of Revenue Intelligence, Mumbai Zonal Unit has seized Heroin weighing 293.81 kg and in the offence involvement of present accused is found. Record shows that PS Special Cell, New Delhi has registered an FIR No.172/2021 dt.06 July 2021 against present accused and other wherein Heroin weighing 351 kg is seized and case is pending in Patiala House Courts, New Delhi.
8. Record shows that regular bail application bearing No.BA/2932/2022 is pending before Hon'ble Bombay High Court. Ld. Advocate for accused was asked as to why she did not approach for temporary bail before Hon'ble Bombay High Court & in reply to this, she submitted that it will take time in the Hon'ble Bombay High Court & for administrative reasons it is not possible to do so. Ld. Advocate has placed on record



order dt.16 January 2024 passed by Ld. Special Judge NDPS, New Delhi in aforementioned FIR No.172/2021. As per this order, interim bail of 15 days is granted to present accused.

9. Ld. Spl. P.P has relied upon judgment of Hon'ble Supreme Court in *Union of India Vs. Khaliluddin (Cri.Appeal No.1841-1842/2022 decided on 21 October 2022)*. I have considered this judgment at the time of passing of this order. He has further relied upon Section 37 of NDPS Act & various rulings of Hon'ble Supreme Court in his say.
10. If documents placed on record by accused are considered then no affidavit is filed by anyone in support of application & to confirm the fact of marriage. Photo copy of marriage card is attached with the application. As per Ld. Advocate for accused, Special Court i.e. Patiala House Court, New Delhi has granted temporary bail to accused but certified copy of that order is not placed on record. I have personally verified about this order on website of Patiala House Court, New Delhi but order dt.16 January 2024 is not noticed. When order was passed on that day it was possible for accused to file certified copy of that order. No explanation is given in this regard.
11. Criminal Bail Application No.2932/2022 which is pending before Hon'ble Bombay High Court was filed in the year 2022. It's last date was 19 January 2024. On that day, matter was adjourned as Advocate on record was busy in another Court. It was quite possible for applicant and his Ld. Advocate to



approach to Hon'ble Bombay High Court for temporary bail but same is not done for best reasons known to them. Reasons given by Ld. Advocate for accused for not preferring bail application before Hon'ble Bombay High Court are not satisfactory. There is nothing on record for confirmation about marriage of daughter of accused.

12. Present application is not filed after taking leave or liberty from Hon'ble Bombay High Court. When regular bail application is pending before Hon'ble Bombay High Court, it will be against judicial propriety to entertain such type of application. Apart from this, as stated above no affidavit and documents which could be relied upon about confirmation of marriage of daughter of accused are placed on record, I am not inclined to consider the application for temporary release of accused for aforesaid reason. There is no merit in application & as a result, I pass following order.

:: ORDER ::

Application is rejected.

(Application is disposed of accordingly)

Sd/-

Panvel,
Dated:-30/01/2024

(S. C. Shinde)
Addl. Sessions Judge
Panvel, Dist.-Raigad