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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.4336 OF 2015**

Bhaya s/o Jatnya Pawara

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr K.T. Shirurkar, Advocate for applicant;  
Mr K.D. Munde, Addl. Public Prosecutor for respondent

**CORAM : N.W. SAMBRE, J.**

**DATE : 27<sup>th</sup> January, 2016**

**ORDER :**

By the present application under section 439 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.3013 of 2015 (now Special Case No.1 of 2015), registered with Chopda Rural Police Station, Chopda, Dist. Jalgaon, for offences punishable under sections 8, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act.

2. The investigation in the matter is complete and charge-sheet is also filed.

3. Perusal of the charge-sheet depicts that the applicant was found to have been involved in cultivation of Ganja.

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4. In the above background, learned Counsel appearing on behalf of the applicant would urge that looking to the age of the applicant, in view of proviso to section 437 of the Code of Criminal Procedure, he cannot be detained further in absence of a full-fledged trial. Learned Counsel submits that in the event of release of the applicant on bail, he shall attend the case proceedings on each and every date and shall abide by the terms of the bail.

5. According to the learned Counsel, on merits the applicant has a good case, because the land in which he is alleged to have cultivated Ganja, is a forest land and he is not owner of the same.

6. Learned Addl. Public Prosecutor, while opposing the application, would urge that presumption is against the applicant and it is for him to prove that the contraband article was not seized from his custody. Learned Addl. Public Prosecutor then would urge that the investigation depicts sufficient evidence against the applicant, in relation to his *prima facie* involvement in the crime in question. Thus, he prayed to reject the application.

7. Perused the contents of the charge-sheet. It is noted that the investigating agency, after carrying out raid, has recovered Ganja trees and stems, to the extent of 27.5 Kgs. Apart therefrom, there is sufficient evidence on record to *prima facie* infer that the applicant is involved in commission of the crime in question.

(3)

8. In that view of the matter, in my opinion, no case is made out for grant of bail. Thus, the application fails and stands rejected.

**(N.W. SAMBRE, J.)**

amj