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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.1584 OF 2019

Vikas Zumber Dhavale

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.M.S.Mohite i/b Mr.K.Y.Mali, for the Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent - State.

PSI – T.M.Mohite, Daud Police Station, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th SEPTEMBER, 2019

P.C. :

1. In view of the 'Not Before' order passed by Hon'ble Shri Justice Sarang V. Kotwal, the aforesaid application is placed before this Court.

2. Heard learned counsel for the parties.

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.127 of 2019 registered with the Daund Police Station, for the alleged offences punishable under Sections 8, 15,

18, 32 and 46 of the Narcotic Drugs and Psychotropic Substances Act (N.D.P.S).

4. Perused the papers. According to the complainant – PSI Bhanudas Jadhav, on 2nd March, 2019, the Deputy Superintendent of Police of Daund Division received information that a person named Santosh Dhavale having land at Village Malthan, was cultivating cannabis plant in his land. After completing the necessary formalities, raid was conducted. It is alleged that when they reached the said spot, they found one person (Santosh Dhavale) standing in the Gramary Crops and another person (present applicant) standing in the Onion Crops. The co-accused – Santosh was found to be working in the field standing in the name of his wife and the applicant was found, in the field standing in the name of his father. As far as the applicant is concerned, it is stated that he was found in the field where the opium poppy were planted amongst the onions. It is not in dispute that the said field stood in the name of the applicant's father. The quantity that was found of opium/poppy crops were removed from the said field in the presence of the parties including the panchas. Under the N.D.P.S Act, small quantity and commercial quantity with respect to cultivating of opium/poppy has not been specified separately and the offences in this regard are covered under Section 18(c) of the NDPS Act.

Under Section 18(c), punishment for contravention in relation to opium poppy and opium, is rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees. It is not in dispute that the said opium/poppy which was found was amongst other crops that were planted. Whether or not the Applicant had knowledge or not with regard to the same, is a matter which will be decided by the trial Court. The applicant is admittedly not the owner of the land on which opium/poppy were found. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., for a period of 24 months from the date of his release;
- iii) The Applicant shall not tamper with the evidence or attempt to

influence/contact the complainant, witnesses or any person concerned with the case;

iv) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.