

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

ANTICIPATORY BAIL APPLICATION NO.526 OF 2021

JAYASHREE W/O BHAGWAN MAPARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE POLICE INSPECTOR,
GHANSAVANGI POLICE STATION DIST. JALNA

...
Advocate for Applicant : Mr. S.A. Gaikwad
APP for Respondent/State: Mr. V.M. Kagne
...

CORAM : MANGESH S. PATIL, J.

DATE : 17.06.2021

PER COURT :

The applicant who happens to be the owner of the land Gat No.250 is now being sought to be implicated for the offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the NDPS Act) regarding which Crime No.97/2021 is registered with Ghansavangi Police Station, Tq. Ghansavangi, Dist. Jalna when 73 plants of cannabis weighing 43 kg with wet plants roots and sand attached to the roots was seized when a raid was effected on a tip-off.

2. The learned advocate for the applicant would submit that the applicant is the owner of the land but had given it on crop share basis to the main accused who seems to have cultivated the cannabis plants without her knowledge much less connivance. He would submit that the main accused has been implicated on his such version of having been in possession of the

land on crop share basis. She is a lady. There are no criminal antecedents. She is ready to co-operate the Investigating Officer and may be granted anticipatory bail.

3. The learned APP opposes the Application. He submits that admittedly the applicant is the owner of the land. There is no agreement between her and the other accused regarding tenancy. She is now conveniently feigning ignorance. The matter is under investigation. Cannabis plant weighing 43 Kg have been seized by following necessary procedure and the matter deserves to be investigated further. It being a serious crime, the application be rejected.

4. True it is that it is a matter under the NDPS Act and therefore the question as to if the quantity seized happens to be a commercial quantity or otherwise would be vital. Admittedly, wet plant with soil have been seized totally weighing 43 Kg. Admittedly as far as 'Ganja' is concerned, the commercial quantity is 20 Kg. If this is so, there is not enough material to demonstrate that the quantity seized in the matter in hand was a commercial quantity.

5. Besides, even in the FIR it has been specifically mentioned that the other accused who has been arrested was possessing the field on behalf of the applicant by way of rent. He is being implicated in that capacity.

6. In spite of perusal of material of the investigation there is nothing to *prima facie* bring about any nexus between the applicant and cultivation of the cannabis plant in field which in aggregate extends to

80 Are wherein sugarcane, cotton crops and sweet lemon trees have been in existence and the 73 plants of cannabis were found to have been cultivated somewhere deep inside the field.

7. The applicant is a lady. There are no criminal antecedents. The Muddemal has already been seized.

8. Considering all the aforementioned facts and circumstances, the applicant deserves to be granted anticipatory bail.

9. The application is allowed. Ad-interim relief granted by the order dated 25.05.2021 stands confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)

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