

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

**924 BAIL APPLICATION NO.791 OF 2021**

1. Shri. Mukunda s/o Hasan Jadhav,  
Age : 58 years, Occu : Agriculture,
2. Shri. Ashok Yalji Nikumb,  
Age : 55 years, Occu. : Agriculture,  
Both R/o. Bhamer Village, Tq. Sakri,  
District Dhule. ... APPLICANTS

**VERSUS**

The State of Maharashtra,  
Through Police Inspector,  
Nizampur Police Station, Tq. Sakri,  
District Dhule. ... RESPONDENT

Shri. Chaterjee, Advocate h/f Shri. Nilesh N. Desale,  
Advocate for the applicants  
Shri. A. A. Jagatkar, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.**

**DATED : 21<sup>st</sup> September, 2021**

**PER COURT :-**

1. Heard.
2. Prosecution case is that the informant who is Police Naik got the tip off that applicant Nos. 1 and 2 had cultivated Opium in their field. In accordance with this

information, the informant alongwith other staff including Sub Divisional Police Officer Rural Sector, Sakri raided the spot at 3.15 p.m. on 18<sup>th</sup> February, 2021. One person by the name of Mukunda Hasan Jadhav r/o. Bhamer, Taluka Sakri was present in the field gut No. 137. During his interrogation it was revealed that the adjoining field owner by the name of Ashok Yalji Nikumb (applicant No. 2) had also cultivated the Opium. Police Patil of village Bhamer was summoned. On inspection, it was found that in the land field No. 137 Opium plants of the height to 3 to 5 feet were found grown. They were uprooted and seized. Their weight was 486.58 kilogram and the price was Rs. 2000/-. He informed the police that he was in possession of the land in which Opium was grown. Talathi of village Bhamer informed that the said land belongs to Kashiram Jayram Suryawanshi. These plants were uprooted and they weighed 179.24 kilograms worth Rs. 2000/-. This plants were seized in usual manner and they were referred to the Chemical Analyzer for analysis.

3. After completion of the usual procedure FIR came

to be lodged on the basis of which offence under Sections 15(c), 17(c), 18(c) and 20 of the NDPS Act came to be registered.

4. Shri. Chaterjee sought leave to withdraw the application to the extent of applicant No. 1 when this Court expressed its disinclination to grant any relief to applicant No. 1. Leave to withdraw the application to the extent of applicant No. 1 is granted.

5. So far as applicant No. 2 is concerned, the only evidence against him is the confessional statement made by him to the police officers that he had cultivated the Opium plants and he was in possession of the field. The documentary evidence placed on record shows that the said land is owned by one Kashiram Jayram Suryawanshi. There is nothing on record to show as to in what capacity the applicant is in possession of the said land. No documentary evidence is placed on record to establish any relation between the applicant and Kashiram Jayram Suryawanshi.

In the absence of this connecting link, it cannot be said that the applicant was in possession of the Opium plants. In this view of the matter, applicant is entitled to be released on bail. Charge-sheet is filed. Applicant does not have any criminal antecedents. He is having permanent residence at Bhamer, Taluka Sakri, Dist. Dhule. He is not, therefore, likely to flee from justice. In this view of the matter, following order is passed order.

#### **ORDER**

1. Application is allowed to the extent of applicant No. 2.
2. Application is disposed of to the extent of the applicant No.1 since it is withdrawn by applicant No. 1.
3. Applicant No. 2 be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 06 of 2021 under Sections 15(c), 17(c), 18(c) and 20 of the NDPS Act registered with Nizampur Police Station, Tq. Sakri, Dist. Dhule.
4. Application is disposed of.

5. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**[M. G. SEWLIKAR, J.]**

ssp