

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

**BAIL APPLICATION NO. 1320 OF 2021**

1. Navnath S/o Namdev Wayal,  
Age : 32 years, Occu. Agri.,

2. Namdeo S/o Narayan Wayal,  
Age : 65 years, Occu. Nil,

Both R/o. Bhise Wagholi, Latur,  
Tq. & Dist. Latur.

...Applicants  
(Orig. accused)

**Versus**

The State of Maharashtra

...Respondent

.....  
Shri. P. P. More, Advocate for the applicants  
Shri. S. D. Ghayal, APP for respondent / State  
.....

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

**DATE : NOVEMBER 22, 2021**

**PER COURT : -**

1. Heard Shri. P. P. More, learned Counsel for the applicants and Shri. S. D. Ghayal, learned APP for respondent / State.

2. Allegations against the applicants are that they own agricultural land in Gut No. 34, situated at Bhisewagholi, Tq. & Dist. Latur. The police had received secret information that the applicants had grown cannabis plants in their field. On raiding the field of the

applicants, 13 cannabis plants were found in the field of the applicants. Those plants were weighed and found to be of 34.900 Kg.

3. After completion of usual formalities, an FIR came to be lodged against the applicants bearing Crime No. 149/2021 with Murud Police Station, Latur for the offences punishable under Sections 20(a)(b), 20(2)(c), 29 of the Narcotic Drugs and Psychotropic Substances Act. Charge-sheet has been filed.

4. Shri. P. P. More, learned Counsel for the applicants, submits that the cannabis plants allegedly found in the field of applicants were 13 in numbers. He submits that the prosecution could not adduce any evidence to show that the applicants had cultivated these cannabis plants. He submits that the possibility of natural growth of these cannabis plants cannot be ruled out. He places reliance on the judgment of the Hon'ble Supreme Court in the case of Alakh Ram Vs. State of U.P. reported in (2004) AIR (SC) 2907.

5. Shri. S. D. Ghayal, learned APP submits that the report of the Chemical Analyzer shows that the plants found in the field of the applicants were of cannabis. He, therefore, opposes the application for bail.

6. Admittedly, only 13 cannabis plants were found to have been grown in the field of the applicants. In the case of Alakh Ram (supra), 17 cannabis plants were found to have been grown. The Hon'ble Apex Court observed that sometimes plants may sprout up, if the seeds happened to be embedded in earth due to natural process. It is further observed that, if plants are sprouted by natural growth, it cannot be said that it amounts to cultivation. In this view of the matter, there is scope to say that the plants found in the field of applicants could have been sprouted up naturally. In view of this, the applicants are entitled to be released on bail. Hence, the following order.

**ORDER**

- [i] Application is allowed.
- [ii] Applicants be released on bail on their furnishing PR bond of Rs.15,000/- (Rupees Fifteen Thousand only) each, with one solvent surety in the like amount each, in connection with Crime No. 149/2021 registered with Murud Police Station, Latur for the offences punishable under Sections 20(a)(b), 20(2)(c), 29 of the Narcotic Drugs and Psychotropic Substances Act.
- [iii] Application is disposed of.

- [iv] 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 ]**  
**JUDGE**