

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

925 BAIL APPLICATION NO.199 OF 2022

**BALIRAM GANGARAM GHORPADE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr.Vivek Vasantrao Bhavthankar
APP for Respondent-State : Mr.S.B.Narawade
...

CORAM : M. G. SEWLIKAR, J.

DATE : 11th MARCH, 2022.

PER COURT :

1. The Police Sub Inspector of Police Station, Kuntur, District Nanded received a secret information that the Ganja was being cultivated in the field of the applicant. Accordingly, raiding party was formed and it raided the field of the applicant Gut No. 36 and 37. The raiding party found that 38 plants of cannabis were cultivated in the land block No. 36 and 37. The applicant did not dispute that these two properties belonged to him. Accordingly cannabis plants were seized and the samples as required under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the "N.D.P.S.") Act were taken and sent for chemical analysis. The statement of witnesses were recorded. The charge-sheet came to be filed.

2. Learned counsel Mr. Bhavthankar, submits that the applicant was allegedly found possessing Ganja worth 61 Kilos. The panchanama shows that the plants were uprooted with the roots and therefore, it cannot be said that the weight of the Ganja was more than commercial quantity of 20 Kilos. He submits that the plants were weighed with roots. Therefore, it cannot be said with certainty that Ganja was of commercial quantity.

3. Learned A.P.P. Shri Narwade submits that the C.A. report shows that the plants were of cannabis and not of Ganja. In terms of Section 20 (a) of the N.D.P.S. Act, any one who cultivates cannabis plants is punishable with imprisonment for a period of 10 years and shall also be liable to fine which may extend to one lakh rupees. He therefore, submits that the cannabis plants were found with the applicant and it is of commercial quantity, therefore the application deserves to be rejected.

4. C.A. report shows that the plants found with the accused were of cannabis plants. The cannabis plant is a narcotic drug. As per panchanama the weight of 38 cannabis plants is 61 Kilos and 930 gms. In terms of Section 20 (a) of the N.D.P.S. Act, any one who cultivate cannabis plants without holding licenses to that effect, is liable to be punished for 10 years rigorous imprisonment and shall also be liable to fine which may extend to one lakh rupees.. In the

case at hand, there is evidence in the form of C.A. report that the plants found in possession of the applicant were cannabis plants. The weight of the 38 cannabis plants of was 61 Kilos and 930 gms., therefore, it is of commercial quantity. In terms of Section 37 of the N.D.P.S. Act, consideration for bail as to whether there is prima-facie evidence against the applicant and that whether there is possibility of the accused/applicant committing same the offence. In the case at hand, there is prima-facie evidence to connect the applicant with the offence. I am therefore, not inclined to release the applicant on bail. Hence the following order is passed :

ORDER

- a. Application is dismissed.
- b. Trial is expedited.

(M. G. SEWLIKAR, J.)