

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

BAIL APPLICATION NO. 793 OF 2022

Narsing Devidas Yetal	... Applicant
Versus	
The State of Maharashtra	... Respondent
....	
Mr. V. S. Undre, Advocate for applicant	
Mr. V. S. Badakh, APP for respondent - State	
....	

CORAM : R. G. AVACHAT, J.

DATED : 23rd AUGUST, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.35/2022, registered at Washi Police Station, District Osmanabad, for the offences punishable under Sections 15 and 18 of N.D.P. S. Act.

2. Heard. Perused the First Information Report (FIR) and related papers.

The applicant is alleged to have cultivated poppy, contraband. Pursuant to a tip-off, the applicant's land was visited to find to have cultivated therein 280 kg of poppy. The same came to be seized under the seizure panchanama drawn in the presence of panch witnesses. The Assistant Police Inspector, Local Crime Branch, Osmanabad, lodged the FIR.

3. The land in which the contraband was found, stands in the name of the applicant exclusively. There is, therefore, reason for this Court to *prima-facie* find that it is not a case for grant of bail in view of Section 37 of the N.D.P.S. Act. There is, however, another aspect of the matter, Section 42 of the N.D.P.S. Act is alleged to have not been complied with. The learned APP is candid enough to concede, on instructions, that the police papers (charge-sheet) do not contain any document indicating that the tip-off/secret information received by the concerned officer was reduced to writing and copy thereof has been submitted to his immediate higher up.

4. This Court also went through the entire charge-sheet to find it to be a case of non compliance of Section 42 of the N.D.P.S. Act. The bail application is therefore allowed in terms of following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.35/2022, registered at Washi Police Station, District Osmanabad, for the offences punishable under Sections 15 and 18 of N.D.P. S. Act, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS