

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (BA) No. 632 of 2022

Deepak s/o Dayaramji Gawai

Versus

State of Maharashtra, through Police Station Officer, Police Station Man,
Tq. Murtizapur, Dist. Akola

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.N.Wankhede, Advocate for the applicant.

Ms Mrunal Barbde, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 29th JUNE, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 410 of 2021 registered with Police Station Mana, Tq. Murtizapur, Dist. Akola for the offence punishable under Sections 8, 20(A), 20(B)(ii)(B) of the Narcotic Drugs Psychotropic Substances Act, 1985.

2. Shri Wankhede, learned counsel for the applicant submits that the quantity of contraband found with the applicant is below commercial quantity and as the investigation is over and further custody of the applicant is not necessary, he may be released on bail.

3. He further submits that the applicant is about 70 years old and looking to his age, this Court may consider his request for grant of bail.

4. On the other hand, learned Additional Public Prosecutor points out that the applicant planted ganja trees in his agricultural field and in the backyard of his house. She submits that therefore, it cannot be said that the quantity of contraband was below the commercial quantity.

5. She submits that offence is serious in nature and earlier also the applicant was involved in an offence under Section 302 of the Indian Penal Code.

6. In reply, Shri Wankhede, learned counsel for the applicant submits that in that crime the Hon'ble Supreme Court of India punished him by sentencing him for 10 years. He therefore, submits that the said crime will not be relevant for the present application for grant of bail.

7. Learned Additional Public Prosecutor further points out that there is every possibility that if the applicant is released on bail, he may repeat the offence and as the offence is against the society, this Court may not grant bail to the applicant.

8. I have perused the chargesheet, the First Information Report and the reply filed by the State.

9. From the chargesheet it appears that the applicant planted 45 ganja trees in his field and four trees in the backyard of his house. As the 49 trees were seized by the police, it is difficult to determine the exact quantity of contraband.

10. Thus, considering the seriousness of the offence and severity of the punishment, I am of the opinion that applicant is not entitled for grant of bail.

11. Whereas, considering his age, I am of the opinion that the trial needs to be expedited. Accordingly, I pass the following order:

- i. Criminal application is rejected.
- ii. The trial Court is requested to expedite the trial.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.06.29
18:49:04 +0530