

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

BAIL APPLICATION NO.216 OF 2023

PARMESHWAR DASHRATH JAGTAP
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Suraj R. Bagal
APP for Respondent : Mr. K. S. Patil

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CORAM : S. G. MEHARE, J.

DATE : 17.02.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. In the case in hand, the police have weighed plants with soil. This Court has taken the view in Bail Application No. 49 of 2023 (Jayaji Gynoba Palve Versus the State of Maharashtra, dated 17.01.2023), that since the police did not segregate the soil attached to the roots, flowering tops, therefore, it would be uncertain that the quantity allegedly seized is a commercial quantity. Therefore, Section 37 of the NDPS Act would not apply. In addition thereto, the learned counsel for the applicant placed on record the order of the Bombay High Court at principal seat in Bail Application No.852 of 2021 (Dattu

Shankar Shinde Versus The State of Maharashtra, dated 17.03.2022). Bail Application No. 1792 of 2022 (Hanmant D. Shinde Versus State of Maharashtra, dated 11.11.2022), in which the similar view has been taken. Since the flowering tops were not segregated and weight with the soil, the matter is to be dealt with on merits. The investigation has been completed. Nothing is remained to be recovered from the applicant. Hence, the applicant deserves bail. Thus the following order:-

- i) The application is allowed.
- ii) Applicant Parmeshwar S/o Dashrath Jagtap be released on bail, on furnishing P.B. and S. B. of Rs. 50,000/- with one solvent surety of like amount in C.R. No. 0329/2022 registered with Police Station Jafrabad (Excise), District Jalna for the offence under Section 20(A), 20(B) (i)(ii), 20(C) of N.D.P.S. Act, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not involve in the similar crime.

(S. G. MEHARE)
JUDGE