

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

BAIL APPLICATION NO.241 OF 2023

**DHANSING GUNDIRAM GUMLADU AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Bora Satyajit S.
APP for Respondent/State : Mr. S.P. Sonpawale

...

CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 15, 2023

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The complainant raided the field of the applicants. They uprooted the alleged cannabis plants with flowering tops, leaves and seeds. It was weighing 53.85 kg. The CA report reveals that the flowering tops with greenish leaves and seeds were packed in one packet. The inventory reveals that the weight of the alleged Ganja was increased. The alleged plants were sent to chemical analyzer without quantifying the weight of the flowering tops. That prima facie raises a doubt whether the Ganja seized from the field of the applicants was of commercial quantity to attract the provisions of Section 20(c) and 37 of Narcotic Drugs and Psychotropic Substance Act (for short 'NDPS Act').

3. A consistent view has been taken by this Court in many cases, that where the alleged cannabis plants sent to chemical analyzer without quantifying the weight of the flowering tops, the prosecutions case falls under the shadow of doubt and hence, Section 37 of NDPS Act would not apply. Herein the case, the same mistake has been committed. The flowering tops were not separated, therefore, it is difficult to accept that the quantity of Ganja was commercial. In such circumstances, the application has to be decided on merit.

4. It appears that the raid arranged by the complainant was successful. They have uprooted the plants alleging that those were cannabis plants. Nothing is to be recovered from the applicants. There are no antecedents to their discredit. Therefore, they deserve bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicantss, Dhansing Gundiram Gumladu and Zanaksing Gundiram Gumladu, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one solvent surety in the like amount in connection with Crime No.319 of 2022, registered with Excise Police Station, District Aurangabad for the offence punishable under Section 20 (a)(b)(ii)(c) of Narcotic Drugs and

(3)

Psychotropic Substances Act, on the conditions that they shall not tamper with the prosecution witnesses.

(iii) The applicants shall not involve in similar crime.

(S.G. MEHARE, J.)

Mujaheed//