

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.339 OF 2023

DASHRATH RAMCHANDRA KAMBLE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondent/State : Mr. S. P. Deshmukh
...

CORAM : S. G. MEHARE, J.

DATE : 01-03-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The Investigating Officer uprooted the cannabis plant and weighed with earth, leaves and fruits together. It was weighed 109.591 kgs.
3. To attract Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act") quantity of the ganja shall be commercial. Where the quantity is not commercial, Section 37 of the NDPS Act would not apply. Section 2(b) of the NDPS Act defines the term 'ganja' means and includes, "the flowering of fruiting tops of the cannabis plant excluding the seeds and leaves when not accompanied by the tops".

4. The learned A.P.P. for the respondent/State has strongly opposed the application. He would state that the offence is serious. A huge quantity of ganja has been recovered from the field of the applicant. The offence is against the society. Hence, he may not be granted bail.

5. This Court has consistently taken a view that where cannabis plants with earth, plant, leaves and stems, have been weighed together, the quantity of ganja cannot be considered commercial. Hence, Section 37 of the NDPS Act would not apply.

6. The raid was successful. On the spot of the incident, the entire material has been recovered. The material investigation has also been completed. Hence, the following order :-

- i) The application is allowed.
- ii) Applicant Dashrath Ramchandra Kamble be released on bail, on furnishing PB and SB of Rs.50,000/- with one solvent surety of like amount, in Crime No.464 of 2022, registered with Police Station Udgir (Rural), District Latur, for the offences punishable under Sections 8, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the conditions that,
 - (a) He shall not repeat similar crime.
 - (b) He shall not tamper with the prosecution evidence and influenced the witnesses.

(S. G. MEHARE)
JUDGE