

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.435 OF 2023

RAMBHAU AMRUTA TANDALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shrinivas A. Ambad
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 05-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The police uprooted the cannabis plant from the field of the applicant and weighed it with soil, roots, leaves and branches. It weighed 563.540 Kg.
3. Admittedly, the flowering tops were not separated from the cannabis plants. Hence, it would be difficult to believe that the quantity of Ganja was commercial. Therefore, Section 37(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, would not attract.
4. Unless the flowering tops are separately and weighed from the stem, leaves, the Court cannot guess that the quantity was

commercial. The offence is technical. There should be a specific evidence about the quantity of Ganja seized from the custody of the applicant. This Court has taken consistent view that where cannabis plants weighed without separating flowering tops from stem and leaves, it would be difficult to believe that the quantity is commercial. That apart, the trap was successful and immediately cannabis plants were seized. Nothing is to be recovered from the applicant. There are no antecedents to the discredit of the applicant. He deserves bail. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant Rambhau Amruta Tandale be released on bail, on furnishing PB and SB of Rs.50,000/- with one solvent surety of the like amount, in Crime No.0327 of 2022, registered with State Excise Duty Collection Squad within the jurisdiction of Phulambri Police Station, Taluka Phulambri, District Aurangabad, for the offence punishable under Sections 20(b)(i)(ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the conditions that;
 - (a) He shall not involve in the similar offence.
 - (b) He shall attend the police station as and when called by the Investigating Officer on written notice.

(S. G. MEHARE)
JUDGE