

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

50 BAIL APPLICATION NO.1464 OF 2023

SATPAL GYANBA GHUGE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. K.J. Suryawanshi
APP for Respondent : Mr. K.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: August 28, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.0119 of 2023 registered with Yusuf Wadgaon police station, Tq. Kaij, District Beed for the offences punishable under sections 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act").

2. It is the case of the prosecution that on 7.6.2023 on receipt of the secret information regarding farming of cannabis, a team was formed to carry out raid. On visit to the spot, the applicant was found in the farm. He was served with the notice u/s 50 of the NDPS Act and on search plants like cannabis were seized. Total 9 plants were seized weighing 24.830 kgs. Accordingly FIR has been lodged. After completion of the investigation charge-sheet is filed.

3. During the course of the investigation, inventory is prepared by the Magistrate which shows that seized cannabis are weighing 13.830 kg.

4. Mr. Suryawanshi, learned advocate appearing for the applicant would submit that even going by the inventory prepared by the Magistrate weight of the seized cannabis is approximately 13.830 kg. He would submit that provisions of section 37 of the Act would not apply in such cases. He has further invited attention of this Court to the panchnama as well as inventory which shows that a complete plant was uprooted and that has been seized without segregation of actual Ganja within the meaning of section 2(iii)(b) of the Act. Mr. Suryawanshi has further invited attention of the Court to the fact that there is no C.A. report that would confirm the nature of the plant seized.

5. Learned A.P.P. strongly opposes the prayer for grant of bail. It is submitted that 24.830 Kg quantity has been seized from the field of the applicant. The applicant involved himself in cultivation of the contraband / Ganja. The offence is serious. Release of the applicant may hamper the Trial.

6. Having considered the submissions advanced, apparently, it can be seen that although quantity alleged to have been seized is about 24.830 kgs, It was weight of a complete plant uprooted at the time of the seizure. No segregation in respect of the seized contraband is carried. It is difficult to hold that entire seized material is contraband i.e.

Ganja within meaning of section 2(iii)(b) of the NDPS Act. In absence of segregation and C.A. report as part of the charge-sheet, bar under section 37 of the Act would not apply. Investigation is complete. Charge-sheet is filed. The applicant is behind bar. No purpose would be served by continuing detention of the applicant. Hence, case is made out for grant of bail, on certain conditions. Hence, the following order.

ORDER

- I. Criminal Bail Application is hereby allowed.
- II. The applicant - Satpal Gyanba Ghuge be released on bail in connection with Crime No. 0119 of 2023 registered on 7.6.2023 with Yusuf Wadgaon police station, Tq. Kaij, District Beed for the offence punishable under section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on furnishing P.R. Bond in the sum of Rs.50,000/- (Rs. Fifty Thousand) with one S.B. of the like amount, on the following conditions :-
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall attend the trial and co-operate for early disposal of the case.
 - c] The applicant shall not leave the State of Maharashtra without prior permission of the Trial Court.
- III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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