

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

931 BAIL APPLICATION NO.2098 OF 2022

ANANTA WAMANRAO GADGE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Gangakhedkar Shailendra S.
APP for Respondent-State : Mr. K. S. Patil.
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CORAM : S. G. MEHARE, J.
DATE : 10.01.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. In a raid, the crop of Ganja was recovered from the field of the applicant. It was uprooted and weighed with the earth. As per the prosecution case, the total weight of cannabis trees including leaves and tops was 75.04 k.g.
3. Learned counsel for the applicant would submit that since the flowering tops were not separated, it cannot be said that the contraband recovered was of commercial quantity. The complete trees of cannabis were weighed together. Since, the prosecution is doubtful about the commercial quantity of the cannabis allegedly seized from his field, Section 37 of the NDPS Act would not attract. This is the sole offence registered

against the applicant. Considering the definition of '*Ganja*' and 'cannabis plant', as per the NDPS Act, it appears doubtful whether the so called quantity of the Ganja recovered from the field of the applicant was commercial or not. There are various pronouncements on this point. Law is well settled that in case of non commercial quantity, Section 37 of the NDPS Act would not attract. Nothing remained to be recovered from the applicant. Therefore, the applicant deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **ANANTA WAMANRAO GADGE** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.391 of 2022, registered by Police Station Hatta, District Hingoli, for the offence punishable under Section 20(A) of the NDPS Act, on the conditions not to tamper with the prosecution witnesses and not to involve in similar offences.

(S. G. MEHARE, J.)

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vmk/-