

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 803 OF 2023

Suraj Kantilal Bora ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Ganesh Gupta alongwith Mr. Deepak Gupta, Mr. Sahil Ghorpade, Mr. Sanket Kankate, Mr. Shon Thorat and Mr. Anurag Katari instructed by GG Legal Associates for the Applicant.
Ms. Veera Shinde, APP for the State.

.....

CORAM : N.R. BORKAR, J.

DATED : 3 MAY 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 371 of 2022 registered at Lonikand Police Station, Pune for the offences punishable under Sections 8(c), 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. According to the prosecution, on 13 July 2022, the present applicant was apprehended and he was found in possession of 23.666 kgs. of Ganja.

5. The learned counsel for the applicant has invited my attention to the C.A. Report. It is submitted that perusal of CA Report would reveal that the sample was inter alia consisting of stalks, stems, leaves and seeds. It is submitted that as per Section 2(iii)(b) of the NDPS Act, the Ganja means flowering or fruiting tops of the cannabis plant and therefore, stalks ought not to have been included while weighing the seized Ganja. It is submitted that this Court in similar circumstances by order dated 29 August 2022 in Anticipatory Bail Application No. 2173 of 2022 has released the applicant therein on anticipatory bail.

6. I have perused the C.A. Report. It reads thus:

“Exhibit Nos.(1) and (2): Flowering-fruiting tops, seeds, leaves and stalks in two separate stapled polythene bags packed in two separate parcels marked as ‘S-1’ and ‘S-2’, also labelled as Lonikand Police Station, C.R. No.371/2022, u/s. NDPS Act, 8(C), 20(B)(ii)(C) ... etc. in regional language.”

7. This Court in similar circumstances granted anticipatory bail to the applicant in Anticipatory Bail Application No. 2173 of 2022 by order dated 29 August 2022. Considering this fact and as there are no other criminal antecedents, I am inclined to release the applicant on bail. In the result, the following order is passed :

(i) Application is allowed.

(ii) The applicant - Suraj Kantilal Bora be released on bail in Crime No. 371 of 2022 registered at Lonikand Police Station, Pune for the offences punishable under Sections 8(c), 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 on furnishing P.R Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall attend the concerned police station once in a month i.e., on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.

(N.R. BORKAR, J.)