

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1392 OF 2022

Nisar Modin Jamadar	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Ritesh M. Thobde a/w Adv. Sagar S. Tambe a/w Adv. Kamran S. Shaikh a/w Adv. Changdev Shingde for the Applicant.
Ms. Rutuja Ambekar, APP for the Respondent/State.
API Kiran Deshmukh, Bibwewadi Police Station, Pune.

CORAM : N.R. BORKAR, J.
DATE : 19.04.2023

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.
2. The applicant came to be arrested in Crime No. 71 of 2021 registered at Bibwewadi Police Station, Pune City, for the offences punishable under Sections 8A(c), 20(b) and 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
3. On 16 March 2021, the applicant was apprehended and 22 Kgs of Ganja was found in his possession.
4. I have heard the learned counsel for the applicant and the learned APP for the respondent – State.

5. The learned counsel for the applicant has invited my attention to the C.A. Report. It is submitted that according to C.A. report, 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 granted anticipatory bail to the applicant therein.

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

“Exhibit Nos. (1) & (2) Greenish brown coloured flowering - fruiting tops mixed with pieces of stalks, stems, leaves & seeds put in a polythene bag again wrapped in paper labelled - S-1 & D-1 respectively.”

7. This Court in similar circumstances, by order dated 29 August 2022, granted anticipatory bail to the applicant in ABA No. 2173 of 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.

ORDER

A] Bail Application is allowed.

B] The applicant be released on bail in C.R. No. 71 of 2021 registered at Bibwewadi Police Station, Pune City, for the

offences punishable under Sections 8A(c), 20(b) and 20(b)(ii) (c) of the NDPS Act, on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

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

[N.R.BORKAR, J.]