

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2964 OF 2022

Anand Rasangam Tevar ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Rajendra S. Bidkar for the Applicant.

Mr. S. V. Gavand, APP for the State.

PSI – S.K. Jadhav, Thane Nagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 9, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Anand Rasangam Tevar in connection with C.R. No.162 of 2021 dated 22/08/2021, registered with Thanenagar Police Station, under sections 8(c), 20(b), 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter “NDPS Act”, for short).
- 3.** There are in all 4 accused. The substance 20 Kgs of Ganja was found from accused nos. 1 and 2. The accused no. 3 in his statement recorded stated that Ganja was

delivered to the present applicant. Learned APP submitted that there are monetary transactions and CDR records between the applicant and the accused no. 3. The applicant was arrested on 04/10/2021 and is now in custody for more than 1 year and 3 months. Ganja which was found in possession of accused nos. 1 and 2 is admittedly a non-commercial quantity.

4. I have gone through the First Information Report ("FIR" for short) and panchanama on page no. 74 of the paperbook. In the panchanama it is stated that what was found was green-coloured leaves having a strong smell that looks like grass which was Ganja. This Court in the case of **Kunal Dattu Kadu Vs. Union of India**¹ in the order dated 29/08/2022, considered the definition of Ganja. Paragraph no. 16 of the order dated 29/08/2022 reads thus:

"16] The NDPS Act defined Ganja under Section 2(iii) (b) as under :

"Ganja, that is the flowering of fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) by whatever, name they may be known or designated; and which means that if the seeds and leaves are accompanied by the tops then the same can be termed as ganja."

From the reading of aforesaid description, it can be seen that Ganja is flowering or fruiting tops of the cannabis plant and when the flowering or fruiting tops are not accompanied, the seeds and leaves are

1 Anticipatory Bail Application No. 2173 of 2022

to be excluded.

It is implied that if seeds and leaves are accompanied by tops by way of flowering or fruiting, it would amount to Ganja, but when the seeds and leaves are not accompanied by the tops, this will not be considered as Ganja, ultimately it would have to be ascertained whether the flowering or fruiting tops of the cannabis are accompanied by the seeds and leaves.”

5. There is no reference to flowering or fruiting tops in the panchanama. Only green colored leaves are stated to have been found. The investigation is complete and the charge-sheet has been filed. The trial is likely to take long time to conclude. There are no criminal antecedents reported against the applicant. Nothing was found in the possession of the applicant. After going through the panchanama and FIR, for the reasons in Anticipatory Bail Application No. 2173 of 2022, even the present application can be allowed. Hence, the following order.

ORDER

(a) Applicant- Anand Rasangam Tevar in connection with C.R. No.162 of 2021, registered with Thanenagar Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount;

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so

as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence;

(c) The applicant shall report to the concerned police station once a month i.e. on first Monday between 11.00 a.m. and 1.00 p.m;

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

6. The application is disposed of.

(M. S. KARNIK, J.)