

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3958 OF 2021

Raju Ashok Desale ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Raju Suryawanshi for the Applicant.
Ms. Rutuja Ambekar, APP for the State.

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CORAM : N.R. BORKAR, J.
DATED : 12 APRIL 2023

P.C. :-

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

2. The applicant came to be arrested in Crime No. 636 of 2019 registered at Ambad Police Station, Nashik for the offences punishable under Sections 8(c), 20(b)(ii)(c), 22(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985.

3. On 27 September 2019, Bolero Jeep bearing registration No. MH-17-BS-4747 in which the present applicant was one of the occupants was intercepted and approximately 87 kg of Ganja was found in the said Jeep.

4. I have heard the learned counsel for the applicant and the learned APP for the State.

5. The learned counsel for the applicant has invited my attention to the C.A. Report. It is submitted that perusal of C.A. report, would reveal that the sample was interalia consisting of stalk, seeds and leaves. 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.

6. The learned counsel for the applicant submits that this Court in a similar circumstances by an order dated 29 August 2022 in Anticipatory Bail Application No. 2173 of 2022, has released the applicant therein on anticipatory bail.

7. On the other hand, the learned APP for the respondent/State submits that 87 kg Ganjan was found in possession of the applicant, which is commercial quantity. It is submitted that considering the nature of offence, the applicant may not be released on bail.

8. The applicant is in jail for more than three years and there are no other criminal antecedents. This Court in similar circumstances by order 29 August 2022 in Anticipatory Bail Application No. 2173 of 2022 has released the applicant therein on anticipatory bail.

9. Considering the facts and circumstances of the case, I am inclined to release him on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant shall be released on bail in in Crime No. 636 of 2019 registered at Ambad Police Station, Nashik for the offences punishable under Sections 8(c), 20(b)(ii)(c), 22(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 on furnishing PR 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 the trial.

(N.R. BORKAR, J.)