

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3690 OF 2022

Tanaji Vishnu Shelar

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Mahesh Manik Funde, Advocate for the Applicant.

Mr. Amit A. Palkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.317 of 2021 registered with Murbad Police Station, Thane, for offences punishable under Sections 8(b), 20(a) & (b) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”).

2. It is prosecution’s case that 14th September 2021, the police were patrolling in Murbad area, when they reached near Village – Arose, on seeing the police, applicant tried to run away. The police stopped him and made enquiry with him. He stated that he has planted the ganja plants in his field bearing Gat No.264, Mouje

Asose, Post Kishor, Taluka Murbad. The police inspected the spot and found in all 61 ganja plants in his field, police seized those plants under seizure panchanama and applicant was arrested on the spot.

3. It is the contention of learned counsel for applicant that police has weighed actual ganja, it is 3.584 kg, which is intermediate quantity. Moreover, flowering tops of said plants were not seized. Applicant is behind bar for more than two years. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant was cultivating ganja plant in his field. The said plants have been recovered from his field, at his instance. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

In panchanama prepared by police, it is mentioned that ganja plants were seized from the field of applicant but it is not mentioned whether those plants were having flowering tops.

Definition of “ganja” under Section 2(b) of the NDPS Act reads 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;”

Page 139 of charge-sheet shows the actual weight of ganja was 3.584 kgs.. The seized ganja was mixture of roots, mud and other parts of plant which weighed 22 kgss and actual weight of ganja was 3.584 kgs, which is intermediate quantity. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed.

7. Considering the above facts, applicant’s further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.317 of 2021 registered with MurbadPolice Station, Thane, on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)