



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

BAIL APPLICATION NO. 3420 OF 2023

SANJAY SOHAN BHATUNGE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Aashish Satpute for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI Dattatray D. Sawant, Deccan Police Station, Pune.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 07, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 8(C), 20(b)(ii), 20(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act' for short) registered on 12/08/2020 vide C.R. No.626 of 2020 with Deccan Police Station, Pune.
- 3.** The applicant was arrested on 12/08/2020. The

applicant was found in possession of 21 Kg 450 Gms of Ganja which is a commercial quantity. My attention is invited to page No.97 of the paperbook which is a FSL report. It is mentioned that what was sent was Greenish brown coloured flowering- fruiting tops mixed with pieces of stalks, stems, leaves and seeds put in polythene bag wrapped in paper labelled S-1.

4. I have also perused the FIR dated 12/08/2020. Ganja which is weighed does not conform of the definition under Section 2(iii)(b) of the NDPS Act. The applicant's case is covered by the decision dated 29/07/2021 of this Court passed in Hari Mahadu Valse Vs. The State of Maharashtra.

Paragraph No.5 of the said decision reads thus:

"5. It is however to be noted that the chemical analysis report reveals that the material forwarded for analysis contained flower buds with pieces of stalks, stems, leaves and seeds, without quantifying the weight of flower tops. This fact prima facie raises a doubt whether ganja seized from the warehouse of the accused was of commercial quantity as to attract the provisions under Section 20(C) of the NDPS Act."

5. Moreover, the applicant was arrested on 12/08/2020 and is now in custody for more than 3 years as an

undertrial. The trial is yet to commence and is likely to take a long time to conclude. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In this view of the matter, the applicant can be enlarged on bail overcoming the twin conditions of Section 37 of the NDPS Act. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sanjay Sohan Bhatunge in connection with C.R. No.626 of 2020 registered with Deccan 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.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Deccan police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) 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.

(f) 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.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)