

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3717 OF 2022

Farukh Bashir Nadaf ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr.Sandeep Karnik a/w Rohan V. Bhosale for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI K.P. Patil, Mahatma Gandhi Police Station, Miraj, Sangli.

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CORAM : N.R. BORKAR, J.

DATED : 17 MARCH 2023

P.C. :-

1. This is an Application filed under Section 439 of the Criminal Procedure Code, 1973 for bail.
2. The Applicant came to be arrested in Crime No.134 of 2022 registered with Mahatma Gandhi Police Station, Miraj, Sangli for the offence punishable under Sections 8(c), 20(b), 20(c) of the Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
3. According to the prosecution, on the date of incident which took place on 21st April, 2022, the present Applicant and other co-accused were apprehended and were found in possession of 50 kg Ganja.
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. It is submitted that as per Section 2(iii) (b) of the NDPS Act, the Ganja means flowering on 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 29th 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 considering the nature of offence, the Applicant may not be released on bail.

8. I have perused the C.A. report. It reads thus: Flowering fruiting tops with greenish leaves and stalks in a polythene bag. This Court in similar circumstances by order dated 29th August, 2022 granted anticipatory bail to the Applicant in ABA No.2173 of 2022.

9. Considering the overall facts and circumstances and as there are no other criminal antecedents, I am inclined to release the Applicant on bail. In the result, following order is passed;

ORDER

- i) Bail Application is allowed.
- ii) The Applicant be released on bail in Crime No.134 of 2022 registered with Mahatma Gandhi Police Station, Miraj, Sangli for the offence punishable under Sections 8(c), 20(b), 20(c) of the Narcotics Drugs and

Psychotropic Substances Act, 1985 (NDPS Act) on executing 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 the first Saturday between 11:00 am to 2:00 pm till conclusion of trial.
- iv) Bail Application stands disposed of.

(N.R. BORKAR, J.)