



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1771 OF 2024

SHAHROKH KASAM TADVI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Aakash V. Bagal
APP for Respondents : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 17-10-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.
2. The applicant seeks bail in C.R.No.0160 of 2024 registered with Raver Police Station, District Jalgaon, for the offence punishable Sections 8(b), 20(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "N.D.P.S. Act").
3. The prosecution has a case that the applicant and his brother had planted ganja plants. On information, the police took the raid and recovered the plants and already uprooted plants. The plants seized were weighed with leaves, stems and the land. Alongwith this, it was weighed 91.400 Kgs. On the basis of this, the prosecution has a case it was a commercial quantity.

4. Section 2(iii)(b) of the N.D.P.S. Act defines “Ganja”. “Ganja”, that is, the flowering or 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.

5. The definition has been referred to by this Court in various cases. “Ganja” does not include the seeds and leaves when not accompanied by the tops. The flowering or fruiting tops of the cannabis is Ganja. There are various opinions of this Court that for determining the quantity of Ganja, the seeds and leaves should be segregated and the flowering or fruiting tops should be separated. Naturally, the weight of the plants including the seeds, roots, stems and leaves with the soil would be high. The Chemical Analysis report is also not indicating the same. Therefore, the Court is of the view that it cannot be said that it was a commercial quantity and, therefore, rider of Section 37 of the N.D.P.S. Act would not apply. There is an apparent doubt about actual quantity of ganja. The investigation has been completed. Nothing is to be recovered from the applicant. He is the first time offender. The chargesheet is filed. Hence, his detention would serve no purpose. Hence, the order:-

ORDER

- i) Bail Application is allowed.

- ii) Applicant – Shahrukh Kasam Tadvi, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- with one solvent surety of the like amount in the above crime for the aforesaid offences, on the conditions that;
- (a) He should not tamper with the prosecution witnesses.
 - (b) He should not indulge in identical crimes.
 - (c) He should attend the trial on each and every effective date.

(S. G. MEHARE)
JUDGE

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