

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2824 OF 2023

Bajirao Lobha Rathod, Age 60 years,
Occ.Agriculture, R/o.Lamantanda,
Kamti Kh, Tal.Mohol, Dist.Solapur.
Presently at Solapur Jail.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Ritesh Thobde with Mr.Changdev Shingade, Ms.Ankita Rai i/by
Mr.Sagar S. Tambe, Advocates for Applicant.
Mrs.Veera Shinde, APP for State.

CORAM : ANIL S.KILOR, J.

DATE : 11th June 2024

PC :

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.255 of 2022, registered with Kamti Police Station, Solapur Rural, for the offences punishable under Sections 8(b), 8(c) and 20(b)(ii) of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

3. On receiving information that accused is cultivating Cannabis plants in his field, whereupon after reaching to the spot, it was found that in the field of the accused 75 small and big Cannabis plants were cultivated in the sugarcane crop. All the plants were uprooted and weighed and measured which were 90.79 kilograms; out of which 25 grams were taken as sample and sealed.

4. While seeking bail the learned counsel for Applicant submits that applicant is falsely implicated in the alleged offence. It is further submitted that there is no compliance with the provisions of Sections 42, 50 and 52-A of NDPS Act. It is further submitted that the Applicant is in jail from last about two years and since the charge sheet has been filed, further custody of the Applicant is not necessary.

5. On the other hand, learned APP strongly opposed the application and submits that quantity seized is 90.79 kgs of Cannabis plants worth Rs.9,07,700/-. It is submitted that offence is serious. Accordingly learned APP prays for dismissal of present application.

6. I have perused the charge sheet and thereupon it is evident that inventory certificate issued by Judicial Magistrate First Class shows that the net weight of the Muddemal as per the inventory is 86 kgs 720 grams when weighed before Judicial Magistrate First Class. As far as non compliance of the statutory provisions is concerned, it is a matter which could be established only at the trial in view of the presumption which could be rebutted only during trial.

7. In the circumstances, considering the nature of evidence collected by the prosecution and seriousness of the offence, I am not inclined to grant bail. Accordingly Bail Application is rejected.

(ANIL S.KILOR, J.)

1.

MST